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REPORT

TO THE

MAYOR AND THE CITY COUNCIL

OF THE

CITY OF CHICAGO

BY THE

LAKE SHORE RECLAMATION COMMISSION

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THEODORE K. LONG,

CHAIRMAN

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CHICAGO, 1912



137

BARNARD & MILLER, PRINTERS, CHICAGO

## LAKE SHORE RECLAMATION COMMISSION

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THEODORE K. LONG, Chairman.

WILLIAM H. SEXTON, Corporation Counsel.

G. B. YOUNG, M. D., Commissioner of Health.

## LETTER OF TRANSMITTAL.

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CHICAGO, November 1, 1912.

*To the Mayor and the City Council:*

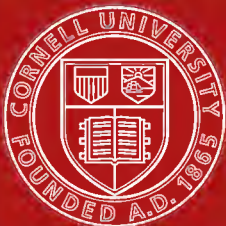
In the preparation of this report by the Lake Shore Reclamation Commission, the chairman has endeavored to present without prejudice a true picture of the essential proceedings had by said Commission on its own initiative, and also such proceedings as were taken or participated in by sundry individuals and organizations co-operating with said Commission, said proceedings having reference to the acquisition for the use of the public of that portion of the water front of Lake Michigan situate between Jackson Park and Grant Park in the City of Chicago.

When the Lake Shore Reclamation Commission was organized, it was assumed that its true function was to arouse activity, create public sentiment and lend substantial aid in all things tending toward or helpful in the recovery, for the utilization by the public, of the lake shore, in short, so to administer the affairs with which it had to do that, as the result thereof, Chicago would not only acquire physical possession of the lake shore, but would also be able to make the best possible use of such possession when acquired.

In connection with the sundry duties and responsibilities of the Commission, the chairman desires to express his acknowledgment to the Corporation Counsel and his assistants, also to Mr. George Inman of the Map Department and to Mr. John Ericson, City Engineer, for valuable assistance and counsel at all times accorded during the prosecution of the work set forth in the accompanying report.

Very respectfully,

THEODORE K. LONG,  
*Chairman Lake Shore Reclamation Commission.*



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## INTRODUCTORY.

The rush to the cities which has taken place during the last two decades is not, as has been sometimes observed, an abnormal tendency of the race. It is strictly in conformity with man's innate gregariousness. More than a century and a half ago Sir William Blackstone, discussing this subject, said:

Man was formed for society, and, as is demonstrated by the writers on this subject, is neither capable of living alone, nor, indeed, has the courage to do it.\*

So we find that in all time the tendency of man has been to cluster in groups: first, in family groups, then, for purposes of mutual protection, in larger groups or communities, and as commerce and trade developed, in still larger groups, which latter became the walled cities of the earlier ages, and, later, the great European municipalities of to-day. And while it was found that the assembling of men in cities afforded greater personal protection at first from the common enemy and greatly facilitated commerce, it soon developed that in certain congested districts of the larger aggregations of population, sundry vices and evils developed and flourished that were practically absent from the race when living in a bucolic or pastoral condition, and then arose the complex questions resulting from the social evil, poverty, the criminal, the insane, sanitation, housing, and the numerous ills that followed in their train.

With the development of the sundry evils enumerated, it may be said that the city is in a certain sense a destroyer or consumer of mankind, both material and spiritual, just as it is in a larger sense a consumer of all material things. The tendency of man in certain city districts is to degenerate, to revert to first types, so that he grows less and less serviceable as a unit in our social machine, as a bread winner, as a soldier to defend the nation in time of peril and as a citizen in general. Much of this tendency toward degeneration is traceable to improper housing and environment, and can be largely obviated by proper city building.

Several years ago the writer gave this all important subject no little attention in connection with his studies as Chairman of the Building Committee of the City Council, and after a strenuous struggle succeeded in having adopted a complete new building code for Chicago, which, while a vast improvement on the old law, is still sadly deficient in its failure to include

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\*Sharswood's Blackstone's Com., Vol. 1, p. 42.

those reforms necessary to eliminate vicious construction, poor ventilation and unsanitary housing conditions, resulting from cheap construction or the so-called poor man's dwelling. Yet, Chicago has made a substantial start in the right direction, and with the application of sane methods in the future, may hope to attain almost ideal conditions in time.

Mr. Raymond Unwin, an eminent London architect, who laid out Hampstead Garden and the new city of Lechworth—both London suburbs—in a talk with the writer at a recent luncheon given at Hull House by Miss Jane Addams, said that the population of his native city is normally increasing at the rate of 500,000 every ten years, or, in other words, England's metropolis is adding approximately a million people to her population every twenty years. Having determined the approximate rate of increase, Londoners have organized a commission whose special function it is to provide land and buildings in advance for the accommodation of the coming thousands. This is a splendid step upward, and the result is that hundreds of acres have already been pre-empted and have been prepared for the coming city dwellers of greater London.

London has learned from experience what Chicago has yet to learn, that the most valuable product of our civilization is not found in its hogs and cattle, its skyscrapers and railroads, its powerful banks and great marts of commerce, but in its healthy, vigorous, efficient and patriotic boys and girls and men and women, and that the enduring greatness of a nation must be measured, in a large degree, by the foresight with which her people are safeguarded in their physical and mental environment. And this means to us here in Chicago, not only beautiful boulevards and palatial museums along the lake shore, but more particularly does it mean the abolition of the unwholesome and illy ventilated, disease-breeding tenements of the poor, and the acquisition of more small parks in the congested districts and more free bathing beaches and playgrounds for the masses.

Chicago must profit by the experience of London. We must build our city not alone for the several millions now here, but for the other millions who are sure to come. This is the true logic of city building and constitutes the real *raison d'être* for the Lake Shore Reclamation Commission, the Chicago Plan Commission, the South Park Commission, the Association of Commerce, the Lincoln Park Board and such other organizations as have aided in carrying on the work inaugurated in this direction through the untiring and far-seeing efforts of a comparatively small coterie of members of the Commercial Club of Chicago, under the enthusiastic leadership and inspiration of that genius of city building and planning, the

late Daniel H. Burnham, who, with his splendid detail knowledge of the artistic structures of Greece and Rome, and an innate prescience of his city's needs, began to evolve in his mind a picture of Chicago Beautiful years ago while his more commercial contemporaries were engrossed in the muck and soot and grime which seemed to underlie Chicago's great commercial development.

Mr. Burnham, after years of effort, having evolved his City Beautiful plan, met his first great obstacle thereto in the opposition of the public who could see in his plan only the dream of an idealist. It was then that he set out on the real Titanic struggle of his experience, to convert strong men to become burning enthusiasts of his view; and though kindly nature did not permit him to look upon his finished work, it did permit him to gather about him a band of co-workers whose power and enthusiasm enabled him plainly to foresee in the fading twilight of his closing days, his artistic dream realized: the new civic center crowned with its stately columns and arches, the great east and west artery filled with the busy hustling Chicago spirit, the lake shore reclaimed, beset with alternate gems of verdant green and marbled white, and dotted with the merry-making groups of Chicago's happy, chattering thousands,—all these constituting an enduring monument to his greatest work for humanity.

For several decades past, Chicago has vigorously essayed from time to time to recover possession of her lake shore, and during all this time the Illinois Central Railroad Company, knowing full well that possession is equivalent to nine points of the law, quietly proceeded to gather within its corporate tentacles the entire stretch of beach from Twelfth Street on the north to Fifty-first Street on the south, a distance of approximately four and a half miles. The aggressive encroachment upon the waters of Lake Michigan that characterized the policy of the railroad, during the last quarter of a century, never abated nor ceased the progress of its dynamic force, and while good citizens protested from time to time, and the spirit of the local press aroused itself semi-occasionally to an expression of righteous indignation, these outbursts ebbed and flowed with the advent and exit of the seasons, and the real progress of aggressive corporate acquisition continued until the railroad had gathered within its power practically the entire beach, and deemed itself securely entrenched upon the lake shore.

This condition prevailed when, in the latter part of 1906 and early in 1907, a little band of Chicagoans largely recruited from the Commercial Club, appeared on the scene at Springfield and asked the legislature of the sovereign state of Illinois to give the public, through the South Park Commissioners, the right to

take the lake shore for park purposes. But here the people learned that there was a sinister power entrenched, a power almost overshadowing the legislature,—a sovereign railroad interest which had to be reckoned with; and so it came to pass that when the bill of the aforesaid band of citizens emerged from the legislative mill ready for the governor's signature, it had been subjected to such a marvelous transformation that it now very graciously permitted the people, through the Park Commissioners, to take for the benefit of the public, by condemnation proceedings, all such lands on the lake shore as belonged to "persons *non sui juris*, or persons unknown".\* As practically all the shore lands in question were in the possession of the railroad company, and no part thereof belonged to "persons *non sui juris*; or persons unknown," the absurdity of the act as finally passed is clearly apparent. The emasculation of this bill in the interest of the Illinois Central Railroad Company, while shamelessly reprehensible from the standpoint of a sovereign people, was regarded by the railroad as a clever achievement entitling certain of its faithful lieutenants to honorable distinction and advancement.

From 1851† down to 1909, despite the burning editorials, from time to time, of the local press, and the spasmodic efforts of civic and commercial bodies, the Illinois Central Railroad Company still deemed itself secure in the possession of the lake shore and refused to treat with the public on any rational basis for relinquishment of its claimed shore rights; so that the Chinese wall of exclusion of the public from the lake had been successfully raised from Twelfth Street to Fifty-first Street. And even beyond Fifty-first Street, certain individual claimants, emulating in spirit, if not in degree, the rapacity of the railroad, seized and held fast to all the lake shore as far south as Jackson Park; and in Jackson Park the trustees of the public, not to be outdone by their neighbors on the north, formulated and enforced a sort of local *lex non scripta* to the effect that no part of the beach in Jackson Park could be used for bathing purposes, establishing a complete continuity of the aforesaid wall of exclusion from Twelfth Street to Seventy-fifth Street, a distance of approximately six and a half miles, and wrongfully and cruelly shutting off from this health-giving beach and natural playground Chicago's romping childhood and vigorous adolescence. This was, in short, the condition of the lake shore when, in the spring of 1909, the writer was first elected to the City Council.

In May, 1909, shortly after the writer's election to the City

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\*See Act approved May 2, 1907, Sec. 1.

†See Act of February 10, 1851, Illinois Central Charter.

Council, his attention was first directed to the then condition of the shore of Lake Michigan, and especially that portion thereof lying between Jackson Park and Grant Park, and he thereupon began a systematic study of the subject, in connection with his regular aldermanic duties as a member of the committee on bathing beaches and recreation piers.

With a view of proceeding intelligently with the study of this subject, the writer on August 17, 1909, addressed a letter to the Corporation Counsel, requesting an opinion as to the then ownership of sundry portions of the lake shore,\* and at the same time efforts were made to arouse interest on the part of the South Park Commissioners, for the purpose of having such commissioners proceed to acquire title by compromise or agreement under the provisions of the several Acts of the General Assembly then in force.†

After repeated efforts to accomplish results in this direction, and nothing tangible having resulted therefrom, the matter was finally taken up for consideration with the Mayor, as shown by the following correspondence:

COMMUNICATION WITH MAYOR BUSSE.

September 25, 1909.

*Hon. Fred A. Busse, Mayor of Chicago.*

DEAR SIR: Referring to a recent conversation had with you concerning certain conditions which pertain relative to sundry submerged lands and "made" lands along the lake shore between the mouth of the Chicago River and Seventy-ninth Street, the writer begs to invite your attention to the following:

You, of course, are advised of the somewhat unsettled condition of the ownership of the lake frontage caused by extensive filling in from time to time of the submerged lands. Large areas of these submerged lands have been filled in and are now in process of being filled in and are taken possession of by private parties without authority of law, as the writer believes, and day by day, week by week, and month by month, these aggressive private interests advance further and further into and over the waters of the lake, appropriating to their own uses the common heritage of the people, the most valuable, attractive and artistic lake water frontage ever possessed by a free city.

Between Grant Park and Twenty-second Street, between Forty-seventh Street and Fifty-first Street and between Fifty-third Street and Jackson Park this process of the extension of private dominion over the natural recreation beaches and playgrounds of the city goes steadily, rapidly and persistently forward. These aggressive private interests never slumber; their paid agents and attorneys are ever on the alert to extend their jurisdiction lakeward, while in the meantime the public, inactive and slothful, its representatives ever changing by the change in political administration, sleeps on its rights and the people's heritage pays the penalty.

In connection with the work of the Special Committee on Bathing Beaches and Amusement Piers, the writer's attention was first directed to this subject, and as a member of such committee, and with the consent and approval of the chairman thereof, the writer, with a view of bringing some order, if possible, out of the general chaos that seemed to pertain relative to the lake front,

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\*See Appendix A.

†Act approved May 14, 1903, Act approved May 2, 1907. See report of Chicago Harbor Commission, 1909, Appendix C.

addressed a letter of inquiry to the Corporation Counsel, a copy of which letter, together with the reply thereto, is hereto appended.\*

While from the aforesaid opinion of the Corporation Counsel it would seem that title to the submerged lands is clearly vested in the State or in the State's grantee, yet by reason of the existing riparian rights in the adjacent owners, and sundry claims asserted over lands formed by accretion or otherwise, the exact legal dividing line between the private owner, the State, the City of Chicago and the South Park Board is, to say the least, sufficiently obscure to warrant an effort on the part of the city and the various parties in interest to get together and to make a proper, final and definite adjustment of the matter.

As a question of practical utility it is probably not material to the people as a whole whether the legal title vests in the State, the Park Board or the City of Chicago, so long as the title so vested is held in trust for all the people, and so long as the party so holding title will see to it that the lake front is not alienated, or encroached upon for private uses.

The lake front submerged lands should not be sold, bartered or given away at any price. No sum imaginable can compensate the people for the loss of these lands as their natural playgrounds and bathing beaches, and the aggressive private interests which have from time to time asserted dominion over them must be removed therefrom.

While it would seem from the aforesaid opinion of the Corporation Counsel that the South Park Board has the right under the Acts of 1903 and 1907 to acquire title to and possession of the submerged lands between Grant Park and Jackson Park, nothing has as yet been done by said park board toward acquiring such title; so that it is entirely proper for the city, as representing the whole people, to take the initiative and either acquire title by condemnation proceedings or otherwise, or inspire the South Park Board to a keener conception of its opportunities in this behalf.

With a view of inspiring some action toward the adjustment of these matters, the writer on July 30 last suggested to the chairman of the South Park Board the appointment of a joint high commission composed of representatives from the South Park Board, the City Council and sundry others in interest, to confer with commissioners to be appointed by the Illinois Central Railway Company and others making claim to the lake frontage, in the hope that such commissioners might find a way to compel the early settlement of the disputed interests involved. Nothing, however, practical resulted from the foregoing suggestion.

It is extremely important that this whole matter of lake frontage be settled at the earliest date feasible, for the reason that it appears from authentic sources that the natural filling in of the lake frontage resulting from the dumping of garbage and excavation material amounts, approximately, to twenty acres per annum. It is apparent that this very valuable acquisition of made land should not inure to the benefit of private parties, but should be converted into park areas, bathing beaches and pleasure grounds for the people of Chicago and the State of Illinois. This can only be done by working in conformity with an intelligent and orderly plan based upon a fixed ownership of the lake shore frontage; and the first special requisite therefor, as preliminary to any plan, is the settlement and adjustment of the ownership of the lake shore.

In pursuance, therefore, of the cordial interest expressed by your Honor to the writer on this subject and your hearty willingness to urge a final adjustment thereof, I beg to lay the whole matter before you for such action or recommendation as you may deem expedient and wise in the premises.

Very respectfully yours,

THEODORE K. LONG.

MAYOR'S OFFICE,  
CHICAGO, September 27, 1909.

*To the Honorable, the City Council.*

GENTLEMEN: I herewith transmit to your honorable body a communication from Hon. Theodore K. Long, which concerns submerged and "made" lands

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\*See Opinion of Corporation Counsel, Appendix A.



along the lake shore between the mouth of the Chicago River and Seventy-ninth Street, together with an opinion of the Corporation Counsel, addressed to the Committee on Bathing Beaches and Recreation Piers, which bears on the aforesaid subject, also a letter of Alderman Long addressed to the Corporation Counsel, requesting the submission of the opinion.\*

Inasmuch as it appears, both from the opinion of the Corporation Counsel as well as from the communication of Alderman Long, that there are many unlawful encroachments along the shores of Lake Michigan south of Twelfth Street, one conclusion necessarily follows: Some one should proceed with all possible diligence to obtain for the people both title and undisputed possession to the land which belongs to them.

Diversity of jurisdiction should not stand in the way of speedy action. The State of Illinois, the South Park Commissioners and the City of Chicago should unite in preserving for the people their common interest.

Since I do not believe that formalities should retard any movement which inures to the public benefit, I respectfully request that you authorize the Mayor to invite a conference consisting of representatives of the State of Illinois, of the South Park Board, the Lincoln Park Board, the Sanitary District and the City of Chicago, who shall assemble for the purpose of considering the best method of procedure for the reclamation of the lands in which each representative is, in a measure, interested, and which have been appropriated by others. Such a conference should be authorized to consider the advisability of a settlement and adjustment of the claims made by riparian owners along the lake shore between the points aforesaid.

That a conference of this character can materially assist the City of Chicago in its plan for the establishment of bathing beaches and recreation piers can not be denied, and it is with the hope that the sympathy of the aforesaid authorities is with Chicago in this movement that I submit the foregoing proposition to your honorable body.

Respectfully,

FRED A. BUSSE,  
*Mayor.*

In pursuance of the foregoing, the City Council on September 27, 1909 (See C. P. page 1157), authorized the Mayor to invite representatives to a conference, as suggested in his communication. After repeated, unavailing efforts to effectuate results in this manner, owing principally to petty jealousies and a disinclination on the part of the different authorities to take the initiative, it was concluded by the writer to abandon the conference plan, believing that more substantial progress could be made by the commencement of legal proceedings against trespassing shore owners. The following resolution was, therefore, prepared and presented to the City Council by Theodore K. Long, January 25, 1910, and was unanimously adopted:

#### RESOLUTION BY THE CITY COUNCIL.

WHEREAS, Sundry private interests and corporations claim ownership to large portions of the shore of Lake Michigan, between Indiana State line on the south and Devon Avenue on the north; and

WHEREAS, The said lake shore should be forever held by the City of Chicago or by the several park boards within said city, in trust for all the people, for recreation and park purposes;

*Resolved*, That the Mayor be and he is hereby authorized to appoint a commission of three, to be known as the "Lake Shore Reclamation Commis-

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\*For letter of Alderman Long and Opinion of the Corporation Counsel, see Appendix A.

sion," whose duty it shall be to make such investigations and institute and carry on such proceedings at law and in equity as in the judgment of said commission may be deemed necessary or advisable to procure title and possession to said lake shore for the said city or park boards, and especially to that portion thereof lying between Jackson Park and Grant Park, and to report its proceedings to this Council. (Page 2786 C. P. 1909-10.)

In accordance with the foregoing resolution, the Mayor appointed as said commission, Theodore K. Long, Chairman, E. J. Brundage, Corporation Counsel, and Dr. W. A. Evans, Health Commissioner.

The above commission, immediately after its appointment, set to work to procure the necessary data upon which to base legal action, and after an extended preliminary investigation and repeated conferences held between the representatives of the Lake Shore Reclamation Commission, the office of the Attorney-General and the office of the State's Attorney of Cook County, suit was commenced April 2, 1910, in the Superior Court of Cook County, in the name of the State of Illinois, to recover for the use of the public the made lands at Fifty-first Street and the lake, east of the Beach Hotel. And later, May 19, 1910, six additional suits were commenced in the same court, the purpose of these suits being to recover, for the use of the public, all that portion of the shore of Lake Michigan between Grant Park, on the north, and Jackson Park, on the south.

The said suits may be briefly described as follows:\*

(1) People v. Jones (Morgan heirs) and the Chicago Beach Hotel, involving the made lands immediately north of Fifty-first Street and adjoining the city's East End Park, aggregating 7.91 acres.

(2) People v. Illinois Central Railroad Company, involving the made lands between the Chicago Beach Hotel on the south and Grant Park on the north, aggregating approximately 20.0 acres.

(3) People v. Lowden (Pullman heirs) involving the made lands immediately south of and adjacent to East End Park, amounting to about .46 of an acre.

(4) People v. Jones (Morgan heirs), involving the made lands immediately south of the last above described tract of the Pullman heirs, and aggregating approximately 1.22 acres.

(5) People v. Brega, involving the made lands immediately south of the last above described tract of the Morgan heirs, and aggregating 4.15 acres.

(6) People v. Shedd, involving the made lands immediately south of the last above described tract, and aggregating 3.87 acres.

(7) People v. Lehman, involving the made lands imme-

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\*For a more detailed account of the proceedings in equity see Appendix B.

diately south of the last above described tract of the Shedd's, and aggregating 1.59 acres.

The total amount of made land involved in the foregoing suits was approximately 38.3 acres, which at a valuation of \$50,000.00 per acre would amount to \$1,915,000 exclusive of the value of the riparian rights.

It is estimated\* that the waste street and excavation material from Chicago amounts annually to slightly in excess of one million cubic yards, or enough to fill in twenty acres of made land, building the same seven feet above the surface of the lake in a depth of twenty feet of water; so that with the riparian rights in possession of the public, it is apparent that there is practically no limit to the lands that may be made and reclaimed for park, playground, bathing beach and other amusement purposes.

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\*See Plan of Chicago, page 50.

## TEXT OF REPORT PROPER.

For convenience of discussion it will be expedient to consider the work of our commission under four principal heads, as follows:

- I. The lake shore immediately north of Fifty-first Street, known as the Morgan, or the Chicago Beach Hotel, claim.
- II. The lake shore extending south from East End Park at Fifty-second Street to Jackson Park at Fifty-fifth Street, and involving five separate claims, known as (1) Pullman heirs, (2) Jones, or Morgan heirs, (3) Brega, (4) Shedd, and (5) Lehman claims, respectively.
- III. The lake shore extending from the Chicago Beach Hotel at Fifty-first Street to Grant Park, a distance of approximately four and a half miles, and known principally as the claim of the Illinois Central Railroad Company.
- IV. The Calumet District, including the entire shore of Lake Calumet in South Chicago.

### I.

#### THE MORGAN CLAIM—CHICAGO BEACH HOTEL.

SUIT COMMENCED—NEGOTIATIONS FOR A SETTLEMENT—TENTATIVE ADJUSTMENT—REFUSAL OF ATTORNEY GENERAL TO CONFIRM TENTATIVE ADJUSTMENT—PREPARATION OF CASE FOR TRIAL.

Shortly after filing suit in this case, April 2, 1910, the defendants began to manifest a lively interest in a settlement, and negotiations were, therefore, opened through their representative, Mr. Harrison B. Riley of the Chicago Title & Trust Company, and Mr. John C. Hately and Edwin A. Potter, lessees of the Beach Hotel property.

This case involved the right of the city to utilize Morgan Shoal as a depository for city waste, and as the city was desirous of procuring an early settlement with a view of so utilizing Morgan Shoal, thereby eventually building a pleasure island of approximately 100 acres between Forty-seventh and Fifty-first Streets extended, said island to be connected with Fifty-first Street by an ornamental bridge or causeway,\* every reasonable effort was made to effect a compromise of this case, with the result that a tentative adjustment was effected at a

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\*For complete detailed plans of the proposed island and causeway, see "Joint Preliminary Report of Committee on Bathing Beaches and Recreation Piers and the Lake Shore Reclamation Committee" of December, 1910. See also Appendix K.

conference held at the office of the Corporation Counsel, October 5, 1910, at which were present E. J. Brundage, Corporation Counsel, Adolph Traube, Assistant Corporation Counsel, C. P. Gardner, representing the Attorney-General of Illinois, H. P. Riley of the Chicago Title & Trust Company, representing the Morgan heirs, E. A. Potter and John C. Hatley, representing the Chicago Beach Hotel, and Theodore K. Long, representing the Lake Shore Reclamation Commission. The tentative agreement was subject to approval by the Attorney-General, who, on October 28, 1910, wrote his representative in Chicago, refusing his consent thereto for sundry reasons recited, to the effect that the approval of the agreement and its confirmation by the court would give to the claimants greater rights than, in the opinion of the Attorney-General, they were entitled to. In view of the opinion of the Attorney-General, the city's representatives abandoned any further immediate effort looking toward an amicable adjustment of the Chicago Beach Hotel case and began a diligent and exhaustive preparation of the case for trial.

Of the several cases instituted for the recovery of the lake shore, the case against the Chicago Beach Hotel is regarded as the most favorable to the city, and it is believed by those who have the matter in charge, that unless the claimants are willing to make a settlement fair to the public, the case should be vigorously prosecuted to the end.\*

## II.

**THE LAKE SHORE EXTENDING SOUTH FROM EAST END PARK TO JACKSON PARK AND INVOLVING FIVE SEPARATE CLAIMS KNOWN AS (1) PULLMAN, (2) JONES OR COLLINS, (3) BREGA, (4) SHEDD AND (5) LEHMAN CLAIMS, RESPECTIVELY.**

SUIT COMMENCED—NEGOTIATIONS FOR SETTLEMENT—APPOINTMENT OF JOHN BARTON PAYNE AS CHAIRMAN OF THE SOUTH PARK COMMISSION AND RENEWAL OF NEGOTIATIONS FOR SETTLEMENT—PROPOSITION OF JUNE 23, 1911, BY HARRY S. McCARTNEY FOR THE CLAIMANTS—CORRESPONDENCE WITH ATTORNEY GENERAL STEAD—UNION LEAGUE CLUB CONFERENCE OF SEPTEMBER 27, 1911—ATTORNEY GENERAL'S LETTER OF OCTOBER 9, 1911, SETTING FORTH HIS DISSENTING VIEWS—CORRESPONDENCE BETWEEN JOHN BARTON PAYNE, THEODORE K. LONG AND GOVERNOR DENEEN, RELATIVE TO ADDITIONAL LEGISLATION—ACT APPROVED JUNE 11, 1912, CONFERRING GREATER POWER UPON THE PARK COMMISSIONERS—CONFERENCE OF JULY 9, 1912, AT OFFICE OF JOHN BARTON PAYNE—FINAL ADJUSTMENT OF CERTAIN CLAIMS.

On May 19, 1910, six additional suits were commenced as shown above, and within a short time thereafter the five claimants to the made lands between East End Park and Jackson Park took up with the Lake Shore Reclamation Commission the question of an amicable adjustment. Negotiations dragged along until after the election of Mayor Harrison and the ap-

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\*See Appendix J. Letter to Corporation Counsel Sexton, October 17, 1911.

pointment of John Barton Payne as Chairman of the South Park Commissioners.

Early in June, 1911, the writer having been assured that he could expect the cordial support and co-operation of the South Park Commissioners, as then constituted, requested from the attorneys of the interested parties a statement of their views as a basis for consideration in a proposed amicable adjustment, which request was replied to as follows:

JOHN MILTON OLIVER.

HARRY S. MECARTNEY.

OLIVER & MECARTNEY, LAW OFFICES,

145 La Salle Street.

New No., 9 S. La Salle Street.

CHICAGO, June 23, 1911.

*Hon. Theodore K. Long, Chairman Lake Shore Reclamation Commission,  
Kimbark Ave. & 48th St., Chicago.*

MY DEAR SIR: In answer to your request for a statement of the situation in respect to the controversy over the lake shore lands north of Jackson Park, would say that we have just had a conference in our office between the attorneys and representatives of the various property owners representing the entire property and frontage east of Everett Ave. from East Fifty-fourth St. to East Fifty-fifth St. or Jackson Park.

After thorough conference and consideration of the matter, the parties have agreed respectively to recommend to their clients the following:

1. As to Block 3, extending from Fifty-fifth St. to Fifty-sixth St., we think an arrangement might be made for the owners by which the following line of settlement might be adopted for this block, viz.:

A line running due north and south lying 500 ft. east of the easterly line of Everett Ave.

2. As to the next block north, running from old Fifty-fourth Place extended, to Fifty-fifth St.:

A line running due north and south lying 400 ft. east of said easterly line of Everett Ave.

3. As to the next block north, from Fifty-fourth St. to Fifty-fourth Place:

A line running due north and south lying 175 ft. east of said easterly line of Everett Ave. extended.

Mr. Willis Smith represents the south 220 ft. of Block 3, first mentioned above, owned by the Lehman Estate;

I represent the north part or remainder of said block; and

Mr. Perce represents the two blocks north of this.

Truly,

HARRY S. MECARTNEY.

LAKE SHORE RECLAMATION COMMISSION

OF THE CITY COUNCIL OF THE CITY OF CHICAGO.

THEODORE K. LONG, *Chairman.*

WM. H. SEXTON,

*Corporation Counsel.*

G. B. YOUNG,

*Commissioner of Health.*

July 11, 1911.

*Mr. Harry S. Mecartney, No. 9 La Salle Street, Chicago, Ill.*

MY DEAR SIR:—I beg to acknowledge the receipt of yours of June 23d *re* proposed adjustment of lake shore suits and must apologize for not having given you an earlier reply. I will say, however, that I have not been lacking in diligence in an endeavor to procure harmonious action on the part of the Attorney General, the Corporation Counsel and the South Park Board, and I believe that I will be able to present to you something tangible at an early day.

Thanking you for your courtesy in this behalf, I beg to remain,

Yours truly,

THEODORE K. LONG.

After the receipt of the foregoing communication from Mr. Mecartney several conferences were held resulting in a tentative agreement at a luncheon given by the writer at the Union League Club, July 13, 1911.\*

On July 14, 1911, a meeting was held at the office of the Corporation Counsel, which was attended by representatives of all the shore owners south of East End Park, except the Pullman tract, and a tentative agreement for a settlement of the shore line was effected, subject to the approval of the Attorney-General and the South Park Commissioners.

The following correspondence with the Attorney-General was had with a view of procuring his co-operation to any plan or scheme that might be agreed upon in the adjustment of the suits in question.

4823 Kimbark Avenue, CHICAGO, September 6, 1911.

*Hon. W. H. Stead, Attorney General, Springfield, Ill.*

MY DEAR MR. STEAD: I shall esteem it a favor if you will advise me when you can be in the city to take luncheon with the writer, Mayor Harrison, Judge Payne, Mr. Sexton, Mr. Wayman and your Mr. Holt.

I am desirous of having you meet us in conference in connection with the lake shore suits. I shall be pleased if you will let me know as long in advance as possible. I have spoken to Mr. Holt about this matter, but concluded I had better write direct to you.

With personal regards, I am,

Yours very truly,

THEODORE K. LONG.

W. H. STEAD, *Attorney General.*

STATE OF ILLINOIS,  
DEPARTMENT OF JUSTICE.

SPRINGFIELD, September 7, 1911.

*Hon. Theodore K. Long, 4823 Kimbark Avenue, Chicago, Illinois.*

MY DEAR MR. LONG: I have your esteemed favor of the 6th inst., and note what you say. I received a letter from Mr. Holt a few days ago, advising me of the desired conference.

I wrote Mr. Holt and requested him to say to you that I had no definite knowledge of your proposed plan and to ask you to submit the essential features of the plan to me before a conference is arranged.

I received a letter from Mr. Holt advising me that he had communicated with you in accordance with my request. As soon as I hear from you I will be glad to arrange with you for a conference at an early date.

With personal regards, I remain,

Yours very truly,

W. H. STEAD,  
*Attorney General.*

4823 Kimbark Avenue, CHICAGO, September 8, 1911.

*Hon. W. H. Stead, Attorney General, Springfield, Illinois.*

MY DEAR MR. STEAD: Replying to your favor of the 7th inst., I fear I can not comply with your request "to submit the essential features of the plan," for the very good reason that we have no definite plan at this time, and it is principally for the purpose of determining upon a plan that we desire to confer with you. We have had several tentative propositions, but we are in no position to trade with the proponents until the State,

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\*For more detailed report of the proceedings had at the Union League Club luncheon see Appendix D.

the Park Commission and the City first agree upon some general plan of adjustment.

You will doubtless recall the fact that when we filed our suits we had a park commission to contend with, which, if not hostile, was, to say the least, not enthusiastically friendly to us. I am pleased to say that this condition has completely changed, and the new president of the Commission, Judge Payne, is not only in full sympathy with our effort to acquire the shore, but will actively assist us in every way possible.

As the Commission, under the terms of the several Acts of the General Assembly, approved May 14, 1903, and May 2, 1907, respectively, has been given extraordinary powers with reference to the lands involved, and as this Commission is now friendly, it occurred to me that probably a short cut might be taken under the above acts, if the pending suits were withdrawn. These, among others, are some of the questions that I would like to have fully discussed in the presence of all the parties in interest on the side of the public.

I trust, therefore, that you will find it convenient to meet with us at an early day.

With personal regards, I beg to remain,

Yours very truly,

THEODORE K. LONG.

W. H. STEAD, *Attorney General*.

STATE OF ILLINOIS,  
DEPARTMENT OF JUSTICE.

SPRINGFIELD, September 13, 1911.

*Hon. Theodore K. Long, 4823 Kimbark Avenue, Chicago, Illinois.*

MY DEAR MR. LONG: On my return this morning, I find your letter of the 8th instant, and note what you say. I can meet with you and the other gentlemen named at any time that will suit the convenience of all of us.

It will be impossible for me to be in Chicago on September 20th, 21st, 24th or 25th. So far as I am now advised, I can be there upon any other date. A luncheon at the Union League Club will be entirely agreeable to me. You can arrange with Mr. Holt as to the date, and he can notify me.

Very respectfully,

W. H. STEAD,  
*Attorney General*.

4823 Kimbark Avenue, CHICAGO, September 15, 1911.

*Hon. W. H. Stead, Attorney General, Springfield, Illinois.*

MY DEAR MR. STEAD: Replying to your favor of the 13th inst., I beg to say that we have fixed Friday, the 22d September, 12:30 p. m., as the time for our conference at the Union League Club, Chicago. Awaiting the pleasure of your company at that time, I am,

Very truly yours,

THEODORE K. LONG.

The conference at the Union League Club, above referred to, was attended by Mayor Harrison, John Barton Payne, Chairman of South Park Commissioners, John E. W. Wayman, District Attorney, William H. Sexton, Corporation Counsel, Robert N. Holt, Assistant to the Attorney-General, W. H. Stead, Attorney-General, and Theodore K. Long.

The Mecartney proposition of June 23, 1911, above, slightly modified, was presented to the conference for consideration. It provided for the cession to the State of substantially all of the shore and riparian rights from East End Park to Jackson Park,



making what was deemed an equitable division of the made lands.

The proposition, as modified, met the approval of all at the conference except the Attorney-General, whose objections were purely technical and not as to the merits of the proposed adjustment. His views are best set forth in the following communication:

W. H. STEAD, *Attorney General.*

STATE OF ILLINOIS,  
DEPARTMENT OF JUSTICE.

SPRINGFIELD, October 9, 1911.

*Hon. Theodore K. Long, 4823 Kimbark Avenue, Chicago, Illinois.*

DEAR SIR: We have carefully considered the subject matter discussed in our recent conference held at the Union League Club, at which conference there were also present the Mayor and Corporation Counsel of Chicago, and Judge Payne, of the South Park Board.

At that conference we were asked to consent, for and on behalf of the State of Illinois, to a plan whereby the made lands along the lake shore, between Jackson Park and the Chicago Beach Hotel, should be divided and apportioned between the shore owners (who make claim to title) and the South Park Board, and to the dismissal of the eight suits now pending, which were instituted by the State to recover said made lands.

These suits were instituted by us upon behalf of the State, at the solicitation and request of Corporation Counsel Brundage and yourself. It was represented to us that these lands were not accretions, but were artificially made lands; that the abutting owners had constructed piers and breakwaters into Lake Michigan, by means whereof, as well as by other means, they had filled in the bed of the lake. After making a sufficient investigation of the facts to satisfy ourselves that these representations were true, we began the suits.

Since the suits were begun, a thorough investigation of the facts and the law has been made by Hon. Robert N. Holt, who has been specially employed by the Attorney General to prepare and try the submerged land cases. From this investigation, as well as the investigations made by ourselves, we are clearly of the opinion that the lands involved in these suits, or at least the greater portion of the lands, are artificially made lands and belong to the State of Illinois. Our understanding is that the present Mayor of Chicago and the present Corporation Counsel, as well as yourself, are also of this opinion.

From an examination of the so-called park acts, it appears to us that the Legislature of Illinois never granted, nor intended to grant, to the South Park Board any of these made lands. The Park Acts clearly distinguish between "made lands" and "submerged lands."

The plan proposed by you for the division and disposition of these made lands, as we understand it, is, in substance, that a division line be agreed upon between the shore owners (who make claim to the lands) and the South Park Board, the shore owners to take all of the made lands west of the division line, and the South Park Board to take all of the made lands east of the division line, and the shore owners to open certain streets through the made lands taken by them; that said plan or agreement be incorporated in a decree to be entered in a suit to be instituted by the shore owners against the South Park Commissioners, under the Park Acts, and upon the entry of said decree, the eight suits instituted by us upon behalf of the State be dismissed.

The only theory upon which we would be justified in dismissing or abandoning these suits, or any of them, would be that we were of the opinion that the lands involved therein did not belong to the State of Illinois. As above stated, we are not of this opinion. Furthermore, the plan proposed is not based upon any such theory. It is based upon the theory that the State

is the owner of the lands involved in these suits, or at least the greater portion thereof, and because of such ownership, the South Park Board and the City will be able to induce the shore owners to surrender to the South Park Board a portion of these made lands and to dedicate certain portions of the remainder to the City of Chicago for street purposes.

The plan proposed does not in any way provide for compensation to the State of Illinois for said lands, and even if it did, it is not within the power of the Attorney General or the State's Attorney of Cook County, or of both of them, to make a binding contract for the disposition of State lands, such power residing exclusively in the Legislature.

After giving this matter the most earnest and thorough consideration possible under the circumstances, we are clearly of the opinion that we have no authority whatever to consent to the proposed plan. We are furthermore of the opinion that any consent given by us to said proposed plan would be absolutely of no avail either to the shore owners or to the Park Board. It would be liable to attack at any future time by the State and would only postpone the settlement of the difficulties which exist relative to these lands.

We shall be pleased to confer with you or the Mayor of Chicago or the Corporation Counsel or the South Park Board or all of you at any time, and will gladly consider any suggestions that you have to make.

Yours very respectfully,

W. H. STEAD,

*Attorney General.*

JOHN E. WAYMAN,

*State's Attorney of Cook County.*

#### FRENCH LICK SPRINGS HOTEL.

FRENCH LICK, IND., October 11, 1911.

*Hon. W. H. Stead, Attorney General, Springfield, Illinois.*

DEAR MR. STEAD: I beg to acknowledge receipt of your favor of the 9th inst., forwarded to me here, and thank you for the very exhaustive manner in which you have discussed the lake shore matter. While I quite agree with you in your construction of the law, I had hoped that some way might be found by which we could acquire for the use of the public these much needed shore lands.

Possibly we might agree upon a decree to be entered tentatively, subject to future ratification by the Legislature. However, I will take this matter up, upon my return home, with my associates and will advise you later of our conclusions.

Again thanking you, and with personal regards, I beg to remain,

Yours truly,

THEODORE K. LONG.

After further consideration of the Attorney-General's opinion it was deemed best to procure an amendment to the law under which the park authorities were proceeding. The writer, therefore, addressed a letter to Judge Payne, Chairman of the South Park Commissioners, suggesting that he forward a letter to Governor Deneen, requesting him to include in his contemplated call for an extra session of the State Legislature, legislation empowering the park commissioners to settle, by private agreement, with the claimants of made lands, so as to cover the objections raised by the Attorney General in his communication of October 9, and to enable an amicable adjustment of the shore claims between East End Park and Jackson Park. The writer's suggestion to Judge Payne was replied to as follows:

SOUTH PARK COMMISSIONERS,  
57th St. and Cottage Grove Ave.

COMMISSIONERS:  
CHARLES L. HUTCHINSON.  
JOSEPH DONNERSBERGER.  
EDWARD TILDEN.  
JOHN BARTON PAYNE.  
HENRY D. FOREMAN.

CHICAGO, November 24, 1911.

*Alderman Theodore K. Long, 4823 Kimbark Avenue, Chicago, Illinois.*

MY DEAR ALDERMAN: I have written the Governor as suggested, and beg to enclose copy of the letter herewith.

We will watch the matter, and if the call becomes imminent, will take such further steps as may be necessary.

Yours very truly,

JOHN BARTON PAYNE,  
*President.*

SOUTH PARK COMMISSIONERS,  
57th St. and Cottage Grove Ave.

COMMISSIONERS:  
CHARLES L. HUTCHINSON.  
JOSEPH DONNERSBERGER.  
EDWARD TILDEN.  
JOHN BARTON PAYNE.  
HENRY G. FOREMAN.

CHICAGO, November 24, 1911.

*Governor Charles S. Deneen, Springfield, Illinois.*

MY DEAR GOVERNOR: The South Park Board is endeavoring to secure title to the riparian rights for the public from Grant Park south and has active negotiations on with the Illinois Central and other riparian owners. We are met by two difficulties:

1. The question as to whether the South Park Board under existing legislation has the same power to acquire submerged land as now exists to acquire riparian rights.

2. The right to condemn riparian rights for park purposes does not now seem to exist.

3. If you should call a special session of the Legislature for any purpose, we would like very much to have you include these two objects in the call. If you want detailed information covering the situation I will be very glad to furnish the same to you at any time. The request, I am sure, will be joined in by the city and the Illinois Central should it become necessary.

Yours very truly,

JOHN BARTON PAYNE,  
*President.*

Upon receipt of the foregoing letter from Judge Payne, enclosing copy of his letter to the Governor, the writer addressed a second letter to Judge Payne suggesting that in his opinion the latter's letter of the 24th of November to the Governor did not fully cover the point raised by the Attorney-General, and suggesting further that he again write the Governor, specifically calling his attention to the necessity of legislation covering the subject of *made lands*.

In response to the writer's second letter the following communication and enclosure were received:

SOUTH PARK COMMISSIONERS,  
57th St. and Cottage Grove Ave.

COMMISSIONERS:  
CHARLES L. HUTCHINSON.  
JOSEPH DONNERSBERGER.  
EDWARD TILDEN.  
JOHN BARTON PAYNE.  
HENRY G. FOREMAN.

CHICAGO, November 29, 1911.

*Hon. Theodore K. Long, Chairman Lake Shore Reclamation Commission,  
Chicago, Illinois.*

MY DEAR ALDERMAN: I beg to thank you for your kind favor of the  
27th instant, and to enclose copy of my letter to Governor Deneen.

Yours very truly,

JOHN BARTON PAYNE,  
*President.*

SOUTH PARK COMMISSIONERS,  
57th St. and Cottage Grove Ave.

COMMISSIONERS:  
CHARLES L. HUTCHINSON.  
JOSEPH DONNERSBERGER.  
EDWARD TILDEN.  
JOHN BARTON PAYNE.  
HENRY G. FOREMAN.

CHICAGO, November 29, 1911.

*Governor Charles S. Deneen, Springfield, Illinois.*

DEAR GOVERNOR: I beg to enclose a letter from Alderman Theodore  
K. Long, Chairman of the Lake Shore Reclamation Commission of the  
City of Chicago, suggesting that in my letter to you I had omitted to cover  
the subject of made lands. There are some lands along the lake shore as to  
which a controversy is now pending between the shore owners and the  
State, and it may be that the Park Board, by an arrangement with the  
state authorities, might desire to acquire some of the made lands.

I, therefore, suggest that when you come to consider the matter that  
you make the call sufficiently comprehensive to cover every phase of the  
subject.\*

Kindest regards.

Yours very truly,

JOHN BARTON PAYNE,  
*President.*

The writer also requested the Corporation Counsel to pre-  
pare a proper bill amending the Park Acts so as to cover the  
points raised by the Attorney-General in his letter of October  
9, above, in pursuance of which request a bill was prepared and,  
after slight amendments, was passed and became a law as fol-  
lows:

#### AN ACT TO AMEND AN ACT, ETC.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented  
in the General Assembly:* That an Act entitled, "An Act to enable park com-  
missioners having control of a park or parks bordering upon public waters  
in this State, to enlarge and connect the same from time to time by exten-  
sions over lands and the bed of such waters, and defining the use which may  
be made of such extensions, and granting submerged lands for the purpose

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\*In February, 1912, the City Council supplemented the request of  
Judge Payne to the Governor by the passage of a resolution calling on  
the Governor to convene a special session of the General Assembly. See  
Appendix C.

of such enlargements," approved May 14, 1903, in force July 1, 1903, be and the same is hereby amended to read as follows:

§ 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly:* That every board of park commissioners existing under the laws of this State, which has now, or may hereafter have, or acquire, control over any public park, boulevard or driveway, bordering upon any public waters in this State, shall have the power to extend such park, boulevard or driveway over and upon the bed of such public waters, and that every board of park commissioners existing under the laws of this State, which now has, or may hereafter have, or acquire, control over two or more separate public parks, whether they constitute a part of one park system or not, bordering upon any public waters in this State, shall have power to connect the same by constructing a park, boulevard, driveway or parkway, extending over and upon the submerged land and bed of such public waters, and over and upon any lands adjacent to or adjoining upon or penetrating into such waters, and may extend any such park by constructing a park, boulevard, driveway or parkway over any private property, and over any navigable river or any part thereof which lies within the territory, the property of which shall be taxable for the maintenance of the park under the control of said board of park commissioners, so as to connect such park, boulevard, driveway or parkway with any park, boulevard, driveway or parkway now or hereafter constructed, and connected with or forming a part of any other park system; and in extending such park or in constructing such park, boulevard, driveway or parkway, the said board of park commissioners may construct such viaducts, bridges or tunnels, or parts of viaducts, bridges or tunnels, within its said territory as to it may seem necessary, and that every such board of park commissioners may acquire the lands, or the riparian or other rights of the owners of lands, or both, whether of individuals or corporations, on the shores adjacent to or adjoining the public waters or rivers in which it is proposed to construct any such park, boulevard, driveway or parkway, or extension or connection, also the title of the private or public owners, if any there be, to lands lying beneath, adjacent to or adjoining such public waters or rivers, also the title of any lands, penetrating into such public waters, and the title of any lands into, upon or over which it is proposed to construct any such park, boulevard, driveway or parkway or any such extension or connection, or any viaduct, bridge or tunnel forming a part thereof, by contract with or deed from any such owner or owners, whether individuals or corporations, or by condemnation: *Provided, however,* that no extension which shall be made shall interfere with the practical navigation of such public waters or rivers for the purposes of commerce, without due authority from the proper official of the United States government having control thereof. Said board of park commissioners and said riparian or adjacent owners are hereby authorized to agree upon a boundary line dividing such adjacent, adjoining, submerged and penetrating lands, acquired or to be acquired by said board of park commissioners, and such adjacent, adjoining, submerged and penetrating lands to be taken, owned and used by said riparian or other owners in lieu of and as compensation for the release of said lands and riparian rights to said board of park commissioners. In case said board of park commissioners are unable to agree with and [any] such owner or owners or persons interested, either as to such boundary or dividing line and such lands to be taken by such riparian or other owners and persons interested as compensation for the release and granting of said lands and riparian or other rights, or in case the compensation to be paid for or in respect of the property, riparian or other rights, the adjacent, adjoining, submerged and penetrating or other lands sought to be appropriated or damaged for the purposes mentioned in this Act, cannot be agreed upon by the parties interested, or in case the owner of the property is incapable of consenting, or his name or residence is unknown, or he is a non-resident of the State, or if, in any event, the said board of park commissioners shall elect to acquire the riparian or other rights, or the adjacent, adjoining, submerged and penetrating or other lands, or any such rights or lands, proceedings may be had to condemn the said riparian or other rights and the said adjacent, adjoining, submerged and penetrating or other lands, or any of them, according to the provisions of an Act entitled, "An Act to provide for the exercise

of the right of eminent domain," approved April 10, 1872, in force July 1, 1872, and amendments thereto.

§ 1-a. The fact that any individual, corporation, or other person shall be made a party defendant to any such condemnation proceedings hereby authorized, shall not establish any presumption as to the validity or the extent of the title of such defendant, but before damages shall be assessed to any such defendant, the court shall first find and adjudge the right, title, and interest of such defendant in the property sought to be taken or damaged, and through such condemnation proceeding the said board of park commissioners shall acquire whatever right, title, interest or claim such defendant may have.

§ 2. In all cases in which said board of park commissioners shall have acquired, or contracted to acquire the riparian rights of the owners of any lands along the shore adjoining such public waters or rivers, or shall have acquired or contracted to acquire lands owned or claimed by such owners, and shall have agreed upon the dividing line aforesaid, said board of park commissioners shall file petitions or bills in chancery on the chancery side of the circuit court of the county in which said lands are situated, praying that the boundary line between the lands acquired or to be acquired by the defendants in said suit and the lands acquired or to be acquired by the said board of park commissioners, under this Act and under such contract or contracts, may be established and confirmed by the decree of said court, as agreed upon by said parties, to which bills or petitions all persons interested in said riparian rights and lands as owners or otherwise as appearing of record, if known, or if not known, stating that fact, shall be made defendants. Persons interested, whose names are unknown, may be made parties defendant by the description of the unknown owners; but in all such cases, an affidavit shall be filed by or on behalf of the petitioner or complainant, setting forth that the names of such persons are unknown; said board of park commissioners shall also give public notice of the filing of each such bill or petition by publication thereof once a week for four consecutive weeks in a newspaper of general circulation regularly published in the city in which, or nearest to which, said riparian rights or lands are situated, which notice shall contain the title of the suit and the term of court at which it is made returnable, the last of which notices shall be published not less than ten (10) days or more than twenty (20) days before the first day of the term of court in which said suit is returnable. The defendants who do not enter their appearance shall be served with process in the suits so instituted in the same manner as in suits in chancery, and the proceedings in said cause shall be conducted in the same manner as in other suits in chancery. Any legal voter or taxpayer within the district or territory in which the property shall be taxable for the maintenance of the park system under the control of such board of park commissioners, shall be permitted to enter his appearance and become a party defendant in said proceedings, and demur, plead or answer to said bill or petition. If, upon a hearing, the court shall find that the rights and interests of the public have been duly conserved in and by such agreement, then the court shall confirm said agreement and establish such boundary line; otherwise, the court shall, in its discretion, dismiss such bill or petition. If the dividing line agreed upon shall be so established and confirmed by the decree or judgment of the said court, it shall thereafter be the permanent dividing and boundary line of said lands, and shall not be affected or changed thereafter, either by accretions or erosions; and the owners of said shore lands are hereby granted by the State of Illinois the title to the adjacent, adjoining, submerged, penetrating and other lands, whether of natural or artificial formation, lying upon the inner or land side of said boundary line when so established, and they shall have the right to fill in, improve, protect, use for all lawful purposes, sell and convey said submerged or other lands up to the line so established, free from any adverse claim in any way arising out of any question as to where the shore line was at any time in the past, or as to the title to any existing accretions, and said board of park commissioners is hereby granted by the State of Illinois the title for park purposes to the adjacent, adjoining, submerged, penetrating, artificially made and other lands lying upon the outer or water side of the said boundary line and opposite and adjoining to the lands granted and confirmed by said decree to said riparian, shore or other owners. It shall be the

duty of the Attorney General to appear in such proceeding and assert the claim of the State of Illinois, if any, as to any lands involved in such proceeding, which have been improperly taken, made or occupied, and the court shall proceed to hear and determine such claim in said proceeding. If it shall be found that any land has been wrongfully taken, made or occupied, to which the State of Illinois can assert title, it shall be the duty of the court to enter a judgment requiring proper compensation to be made by the person or persons or corporation taking, making or occupying such lands, or in lieu thereof, to vacate the same, and such compensation and the claim of the Attorney General shall be determined before any such agreement between any park board and the said alleged owners of such lands shall in any way become effective. The Attorney General shall have the right, upon behalf of the state, with the approval of the court, to compromise any claim which the State of Illinois may assert upon such terms as shall be just and equitable to the State of Illinois. The court shall require notice of the pendency of such proceeding to be given to the Attorney General, and before any decree shall be entered in such proceeding, proof shall be made that such notice has been given.

§ 3. Such board of park commissioners shall have the power to pay for any such rights, lands or territory, thus acquired, and for the construction and protection of such park, boulevard, driveway or parkway, or such extension or connection, either out of its general revenues or by the issue and sale, from time to time, of interest-bearing bonds, in addition to the bonds now authorized by law to be issued and sold by such board of park commissioners: *Provided*, no bonds shall be issued under this Act contrary to the provisions of Section 12, Article IX, of the Constitution of this State: *And, provided, further*, that the proposition to issue such bonds shall first be submitted to a vote of the legal voters of such park district and shall receive a majority of the votes cast upon such proposition. And authority is hereby expressly granted to the board of park commissioners issuing such bonds to levy and collect a direct annual tax upon the property within their jurisdiction, in addition to the amount of any tax now authorized by law to be levied and collected by them, sufficient to pay the interest on said bonds as it falls due, and also to pay and discharge the principal thereof within twenty (20) years from the date of issuing said bonds; and the county clerk of the county in which such park district is located, or such other officer or officers as are by law authorized to spread or assess taxes for park purposes, shall, on receiving a certificate from such board of park commissioners that the amount mentioned in such certificate is necessary to pay the interest on said bonds and also to pay and discharge the principal thereof within twenty (20) years from the date of issuing said bonds, spread and assess such amount upon the taxable property embraced in said park district the same as other park taxes are by law spread and assessed, and the same shall be collected and paid over the same as other park taxes are required by law to be collected and paid.

§ 4. The title to any such extension or connection of such park or parks, boulevards, driveways and parkways, and to the bed thereof, shall be, and thereby becomes vested in such board of park commissioners for public purposes, and the same shall thereby become a part of the public park or parks under the control of such board, and shall thenceforth be maintained and controlled by such board in the manner provided by law, for the government and maintenance of other parks, boulevards and driveways under its control, and in all cases where any boulevard, driveway or parkway is extended or constructed, under the provisions of this Act, the title to the submerged lands lying between the shore of such public waters and the inner line of the extension of such boulevard, driveway or parkway, shall be, and thereby becomes vested in such board of park commissioners for public purposes; and in case any such park, boulevard, driveway or parkway, extension or connection as provided in this Act, shall be made into, over or upon the bed of Lake Michigan by any such board of park commissioners, then the right, title and interest of the State of Illinois in and to the bed of so much of said Lake Michigan shall be vested in such board of park commissioners as in other cases provided in this Act, and for the same purposes and with the same rights and power.

§ 5. No such board of park commissioners shall be hereby authorized to

extend any of its park or boulevard system outside of or beyond the limits of the district or territory, the property of which shall be taxable for the maintenance of the parks under the control of such board of park commissioners, except into, over and upon public waters or rivers adjoining or being a part of such district.

§ 6. The powers granted by this Act to any board of park commissioners shall not be construed to have been exhausted by any one use of the same, but said commissioners may, from time to time, proceed with further enlargements or extensions: *Provided, however*, that all such enlargements or extensions lie within the district or territory, the property in which shall be taxable for the maintenance of the park systems under the control of such board of park commissioners, or within public waters or rivers adjoining or being a part of such district or territory.

§ 7. That the title of said Act be and the same is hereby amended to read as follows: "An Act to enable park commissioners having control of a park or parks bordering upon public waters in this State, to enlarge and connect the same from time to time by extensions over lands and the bed of such waters, and defining the use which may be made of such extensions, and granting lands for the purpose of such enlargements."

§ 8. The following Act is hereby repealed: An Act entitled, "An Act authorizing park commissioners to acquire and improve submerged and shore lands for park purposes, providing for the payment therefor, and granting unto such commissioners certain rights and powers and to riparian owners certain rights and titles," approved May 2, 1907, in force July 1, 1907, and all Acts and parts of Acts in conflict herewith, except as to all petitions and bills in chancery begun before and pending on May 1, 1912, under the said Act approved May 2, 1907, to establish and confirm agreements theretofore entered into under and in accordance with the provisions of the said Act of May 2, 1907, and except as to said agreements if established and confirmed in said proceedings, and all lands, rights, titles and interests affected by such agreements if so established and confirmed in said proceedings under said Act, and as to said proceedings, agreements established and confirmed thereby, and lands, rights, titles and interests affected by said agreements if so established and confirmed, said Act of May 2, 1907, shall not be repealed hereby.

APPROVED June 11, 1912.

After the approval by Governor Deneen of the foregoing Act, which became effective July 1, 1912, negotiations for settlement with the south shore claimants were resumed, and a meeting was held at Judge Payne's office, July 9, 1912, at which were present the following:

John Barton Payne, President, South Park Commissioners;  
H. W. Perce, representing the Brega claim;

Harry W. Sisson, representing the claim formerly known  
as the Pullman claim, which had in the meantime  
changed hands;

Daniel Byrnes, and P. L. McArdle, representing one Col-  
lins, now the owner of what was formerly the Clara M.  
Jones claim;

Willis Smith, representing the Lehman Estate;

Harrison B. Riley, representing the Chicago Beach Hotel  
property;

Robert N. Holt, representing the Attorney-General;

Wm. H. Sexton, Corporation Counsel;

James G. Skinner, Assistant Corporation Counsel; and



Theodore K. Long, Chairman of the Lake Shore Reclamation Commission.

The sundry claims were discussed in the light of the increased power of the South Park Commissioners to condemn under the Act of June 11, 1912, and a tentative plan of adjustment was finally suggested, and Mr. Skinner was instructed to have prepared by the City Map Department, a map showing the proposed tentative plan,—such map to be submitted for further consideration by all the parties interested, at a meeting to be held at the same place, July 12, 1912, at 9:30 A. M.

Several conferences were subsequently had with the claimants, which resulted eventually in the adjustment by agreement of three out of the five claims involved,—the first one adjusted being the Brega claim as follows:

**AGREEMENT BETWEEN SOUTH PARK COMMISSIONERS AND FANNY F. BREGA AND JAMES BARRELL.**

THIS AGREEMENT, made this Twenty-fifth day of July, A. D. 1912, between the SOUTH PARK COMMISSIONERS, a municipal corporation, created by the laws of the State of Illinois, hereinafter called the Commissioners, party of the first part, and FANNY F. BREGA, widow, and JAMES BARRELL, widower, of the City of Chicago, County of Cook and State of Illinois, parties of the second part, WITNESSETH:

WHEREAS, the Commissioners now have control over the public parks in said City of Chicago known as Grant Park and Jackson Park, both of which border upon public waters in this state, to-wit, the waters of Lake Michigan, and are now separate; and

WHEREAS, the Commissioners under the authority vested in them by the laws of said state, wish to extend Jackson Park over and upon the bed of said public waters adjacent thereto, and over and upon any lands adjacent to or adjoining upon or penetrating into said waters, and to connect Jackson and Grant Parks by a boulevard, driveway or parkway extending over and upon the bed of the said public waters, and over and upon any lands adjacent to or adjoining upon or penetrating into said waters, consistently, however, with the practical navigation of said public waters for the purpose of commerce; and

WHEREAS, said parties of the second part are the owners, as tenants in common, of the lands and the riparian and other rights pertaining to such lands on the shore adjoining said public waters between the termini of the boundary line hereinafter and hereby established, and are also the owners of the lands and the riparian and other rights pertaining to such lands, adjacent or near to the northerly end of said Jackson Park and penetrating into the said waters east of said boundary line herein and hereby established, which said lands and the riparian and other rights thereto pertaining, lying east of said boundary line, said Commissioners desire to acquire for the purposes of said proposed extension and connection; and

WHEREAS, the construction of such extension and connection will interfere with or destroy the enjoyment by said parties of the second part of their said riparian rights and necessitate the appropriation by said Commissioners of that part of the said lands of said parties of the second part penetrating into the said public waters easterly of said boundary line, and the acquisition by the Commissioners of said riparian rights and such part of the said penetrating lands of said parties of the second part as is necessary to the construction of said extension and connection; and

WHEREAS, the Commissioners and said parties of the second part desire to agree in form and manner provided by the laws of the State of Illinois, upon a permanent boundary line dividing between the Commissioners and said parties

of the second part the submerged and other lands which extend from that part of the west line of Block Four (4) in East End Subdivision (hereinafter more particularly described) into and under the said public waters between the termini of the said boundary line as hereinafter described, and to fix and define the part of such submerged and other lands which shall be taken, owned and used by said parties of the second part, in lieu of and as compensation for the release to the Commissioners of their said riparian rights and their interest in the part of said lands penetrating into said public waters east of said boundary line, and to confirm in the said Commissioners title, jurisdiction and control for park purposes as provided by law over the said riparian rights of said parties of the second part and the part of said lands penetrating east of said boundary line; and

WHEREAS, the Commissioners wish to have established, without delay, the said boundary line opposite the said shore lands owned by said parties of the second part, to thereby secure the early use, for park purposes, of said penetrating and other lands and the riparian and other rights pertaining thereto on the easterly side of said boundary line, to the end that there may be confirmed in said Commissioners the complete title, jurisdiction and control, for park purposes, as provided by law, over all of said riparian and other rights and lands penetrating eastward of said boundary line between the said termini, and that there may be confirmed in said parties of the second part the right and title to the submerged and other lands between the said boundary line and the west line of said Block Four (4), as hereinafter provided.

NOW, THEREFORE, in consideration of the premises and of the benefit to result to each of the parties herefrom, and the mutual covenants and agreements of the parties herein contained, but subject to the approval of the Circuit Court of Cook County, Illinois, as hereinafter provided, it is covenanted and agreed between the Commissioners and said parties of the second part as follows:

#### ARTICLE I.

The permanent boundary line dividing the submerged and other lands and rights to be acquired, taken, owned and used by the Commissioners, and the submerged and other lands and rights to be acquired, taken, owned and used by said parties of the second part (in lieu of and as compensation for the release of said riparian rights and said part of said penetrating lands to the Commissioners, as hereinafter provided), here contemplated and intended to be established, is the line described as follows, namely:

Commencing at a point on the northerly line (extending eastwardly) of block four (4) in east end subdivision, being a subdivision of the south seven and eighty-six one-hundredths (7.86) chains of the southwest fractional quarter (S. W. Fr.  $\frac{1}{4}$ ) of section twelve (12), lying east of Park Avenue, together with the north ten (10) chains of the northwest fractional quarter (N. W. Fr.  $\frac{1}{4}$ ) of section thirteen (13), lying east of Park Avenue, all in township thirty-eight (38) north, range fourteen (14) east of the third principal meridian, according to plat thereof recorded in the recorder's office of Cook County, Illinois, October 15, 1887, in book 25 of plats, page 50, all in the City of Chicago, County of Cook and State of Illinois, said point being three hundred and seventy-five (375) feet easterly (measured along said northerly line of said block four (4) extended eastwardly) of the northwesterly corner of said block four (4), thence extending southerly parallel with the westerly line of said block four (4) to a point three hundred and seventy-five (375) feet easterly (measured along the southerly line, extended eastwardly, of said block four (4) of the westerly line of said block four (4); which said boundary line is hereby established, acknowledged and confirmed, subject to the approval of the said Circuit Court, as the said permanent boundary line dividing the submerged and other lands and rights to be acquired, taken, owned and used by the Commissioners, and the submerged and other lands and rights to be acquired, taken, owned and used by the said Fanny F. Brega and James Barrell.

#### ARTICLE II.

The Commissioners shall without delay file a petition or bill in chancery on the chancery side of the Circuit Court of Cook County, Illinois, praying that

the said boundary line above established between the lands and rights acquired by the Commissioners and the lands and rights acquired by Fanny F. Brega and James Barrell may be established and confirmed by the decree of said court; and said Commissioners shall exercise all proper diligence and take all proper steps in the prosecution of such petition or bill in chancery as may from time to time be necessary, as contemplated and required by an Act of the State of Illinois approved June 11, 1912, entitled, "An Act to amend an Act entitled, 'An Act to enable park commissioners having control of a park or parks bordering upon public waters in this state to enlarge and connect the same from time to time by extensions over lands and the bed of such waters, and defining the use which may be made of such extensions, and granting submerged lands for the purposes of such enlargements,' approved May 14, 1903, in force July 1, 1903, and to amend the title thereof, and to repeal an Act therein named," and generally shall exert all reasonable efforts to the end that said boundary line as herein defined may be established and confirmed by the final judgment and decree of said court in the said proceeding.

### ARTICLE III.

Upon the establishment and confirmation by the final judgment and decree in said proceeding of said dividing and boundary line above described as the permanent dividing and boundary line along and opposite said lands on the shore adjoining said part of the said public waters, which together with the riparian and other rights pertaining thereto are now owned by the said parties of the second part, all of the riparian rights now held or owned by said parties of the second part as the owners of said lands, and also all the right, title and interest of said parties of the second part in and to the part of the submerged, reclaimed, made and penetrating lands and in and to the part of any piers, basins or projections situate, lying or being on or penetrating or projecting into said public waters beyond and on the easterly side of said boundary line, between the termini of said line, shall vest in, be taken by, held and acquired by the said Commissioners, and in that event the same are hereby vested in, transferred, assigned and conveyed to the said Commissioners for the purposes aforesaid; and upon such establishment and confirmation as aforesaid of the said dividing and boundary line as the permanent dividing and boundary line along and opposite the said lands of said parties of the second part, the part of the said submerged, reclaimed, made and penetrating lands and the waters thereon situate and being on the westerly side of said boundary line, between the termini of said line, and all the right, title and interest in or pertaining thereto, shall be taken, owned and used by said parties of the second part in lieu of and as compensation for the release to the Commissioners of their said above described riparian and other rights and property, and in that event the same are hereby vested in, transferred, assigned and conveyed to said parties of the second part; and the said parties of the second part, as tenants in common, shall have and hold the fee simple title to any and all such lands and interests so vested in them, with full right to fill in, improve, protect and use the same for any lawful purpose or purposes, and to sell and convey the same, up to the line so established, free from any adverse claim in any way arising out of any question as to where the shore line was at any time in the past or as to the title to any existing accretions.

### ARTICLE IV.

It is covenanted and agreed that upon the establishment and confirmation of the said boundary line by the said court, the said boundary line so established and confirmed shall thereafter be the permanent dividing and boundary line of the said lands so to be taken by the respective parties as aforesaid between the termini of said line as so established and confirmed, and shall not be affected or changed thereafter, either by accretions or erosions.

### ARTICLE V.

The parties hereto hereby mutually covenant and agree that to the extent of their lawful powers they will do, execute, acknowledge and deliver, or will cause

to be done, executed, acknowledged and delivered, all and every such further acts, deeds, transfers and assurances, and that they will from time to time in addition thereto in all lawful ways exercise such powers as they may possess, and cause to be done and performed such things as may be requisite or necessary for the better assuring, conveying and confirming in each of the parties hereto respectively, all and singular the premises, estates and property included in this instrument and intended to be vested in the parties hereto respectively.

#### ARTICLE VI.

It is further covenanted and agreed that all the covenants, agreements, rights, privileges, conditions and recitals in this instrument contained shall extend to and be binding on the heirs, executors, administrators, assigns and successors of the respective parties hereto.

This agreement has been made and executed in pursuance of a resolution of South Park Commissioners duly passed according to law at a meeting regularly authorizing the execution of the same.

IN WITNESS WHEREOF, the said Commissioners have caused this agreement to be duly executed by the President and Secretary of said South Park Commissioners and the corporate seal of said South Park Commissioners to be hereunto affixed, and the said parties of the second part have hereunto set their respective hands and seals, the day and year first above written.

SOUTH PARK COMMISSIONERS,  
By JOHN BARTON PAYNE,  
*President.*

ATTEST:

J. F. NEIL,  
*Secretary.*

FANNIE E. BREGA. [SEAL.]  
JAMES BARRELL. [SEAL.]

Agreements similar in form to the Brega agreement above were made as follows:

October 22, 1912, between the South Park Commissioners and Charles P. Shedd, Margaret B. Shedd, his wife, and Edward Shedd.

November 1, 1912, between the South Park Commissioners and Edward G. Carter, Clark L. Poole, Charles N. Gillett and others, successors in interest in the claim of the Pullman heirs.

A tentative agreement on the same general basis as the foregoing has also been entered into in the Lehman claim.

In the remaining or Jones (now Collins) claim, the claimants have not been willing to accept what has been deemed a fair adjustment, and preliminary steps have therefore been taken toward the institution of condemnation proceedings.

The foregoing adjustments, after confirmation thereof by the court, will give the South Park Commissioners all the lake shore lying between East End Park and Jackson Park, except only that portion of the shore fronting on the Jones or Collins tract, which is being covered by condemnation proceedings as aforesaid, thus securing to the public in connection with East End Park, the entire stretch of lake shore lying between Jackson Park and the Chicago Beach Hotel at Fifty-first Street.

## III.

THE LAKE SHORE EXTENDING FROM THE CHICAGO BEACH HOTEL TO GRANT PARK, A DISTANCE OF APPROXIMATELY FOUR AND ONE-HALF MILES, INVOLVING PRIMARILY THE CLAIM OF THE ILLINOIS CENTRAL RAILROAD COMPANY.

1. PROCEEDINGS IN COURT—ATTEMPTS TO AFFECT AN AMICABLE ADJUSTMENT—MEMORANDUM OF CITY'S CLAIMS—RESOLUTIONS BY THE SOUTH PARK COMMISSIONERS—CHICAGO CLUB CONFERENCES—AGREEMENT OF DECEMBER 11, 1912, BY THE ILLINOIS CENTRAL RAILROAD COMPANY AND THE SOUTH PARK COMMISSIONERS—CONFERENCES OF DECEMBER 14 AND DECEMBER 18 AT THE LA SALLE HOTEL AND THE MAYOR'S OFFICE, RESPECTIVELY.

The suit against the Illinois Central Railroad Company was by far the most important reclamation suit filed by our Commission, by reason not only of the fact that it involved a much greater shore line, but also by reason of the fact that the claimants seemed to be entrenched with a stronger showing of title than the other claimants. While it was feared from the outset that this suit could not be adjusted upon an amicable basis, yet it was early brought to the writer's attention that the railroad would be willing to confer with the city authorities with a view of discussing terms of settlement. After several attempts, however, in this direction, nothing was accomplished. Indeed the Park Commissioners at that time did not seem to be willing to co-operate with the city authorities in bringing about a settlement under the several laws then in force.\*

After the appointment of John Barton Payne, as President of the South Park Commissioners, negotiations with the Illinois Central Railroad Company were renewed and terms of a settlement were discussed at the Union League Club by Mayor Harrison, Judge Payne and the writer at a luncheon given by the writer, July 13, 1911, and it was agreed at that time that the city authorities and the Park Commissioners would fully co-operate in any effort to bring about a settlement with the Illinois Central Railroad Company, it being understood that pending negotiations by the Park Commissioners with the railroad company, the city, through its Lake Shore Reclamation Commission, should proceed with due diligence, with the preparation of its suit against the Illinois Central Railroad Company, the same as though no effort at settlement was being made by the Park Commissioners.

Nothing, however, was immediately accomplished and in the meantime the law authorizing the location of harbor dis-

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\*Act approved May 14, 1903, and Act approved May 2, 1907.

tricts\* became effective, conferring upon the city extraordinary powers over the lake shore for harbor purposes, and the Committee on Harbors, Wharves and Bridges took steps toward the location of harbor districts along the lake front. A sub-committee on harbor location was appointed, of which the writer was made chairman. Pending the public hearings of the Harbor Sub-committee, negotiations were resumed between the South Park Commissioners and the Illinois Central Railroad Company. The Harbor Committee adopted the report of the Sub-committee on Harbor Development and presented the same to the City Council in the latter part of October, 1911, which report came up for consideration early in November, recommending among other things, the location of Harbor District Number 3, between Grant Park and Thirty-first Street.† Several days later there was a conference between the Mayor and the chairman of the South Park Commissioners, and on the following day, November 9, 1911, a further conference was held, at which the writer was present and outlined the purpose of the ordinance providing for the location of Harbor District Number 3, to be to force the Illinois Central Railroad Company to act in conformity with the wishes of both the city and the public in bringing about an early adjustment of the lake shore matter.

On the following day, November 10th, after a further conference with the Mayor, it was agreed to call a meeting at the Mayor's office, and the writer was requested by the Mayor to outline, in writing, the city's demands in connection with the proposed settlement of the Illinois Central Railroad Company. The writer accordingly prepared the same day and presented to the Corporation Counsel a memorandum setting forth in brief the city's claims.

On Monday, November 20th, following, the chairman of the Committee on Harbors, Wharves and Bridges called up in regular order and had passed by the Council, the ordinance providing for the location of Harbor District Number 3. Two days later, November 22nd, a conference was held at the Mayor's office, at which were present Mayor Harrison, John Barton Payne, Joseph Donnersberger, Robert Redfield, Maclay Hoyne and Theodore K. Long. The following memorandum or outline of the city's claims, as previously prepared by the writer and submitted to the Corporation Counsel, was presented for consideration:

#### MEMORANDUM.

In consideration of the repeal by the City Council of the City of Chicago, or veto by the Mayor, of an ordinance locating Harbor District Number 3, rec-

\*See report of Sub-Committee on Harbor Development, October 11, 1911, p. 8, Act approved June 10, 1911, known as the "Harbor Act."

†See report of Sub-Committee on Harbor Development, October, 1911.

ommended for passage by the Committee on Harbors, Wharves and Bridges, October 30, 1911 (Council Proceedings, page 1451) and duly passed November 20, 1911 (Council Proceedings, page 1789), it is agreed between the City of Chicago and the South Park Commissioners as follows:

1. All riparian rights in and to the shore of Lake Michigan from the north side of Sixteenth Street to the north side of Twenty-second Street, and the submerged lands adjacent to said shore, shall belong to the City of Chicago in perpetuity, to be used by said city only in the event that such submerged lands may be required by said city for harbor purposes.

2. The city reserves the right to enter across and over the Illinois Central and the South Park, or to go under, as the city may elect, with not more than four railroad tracks on or adjacent to Sixteenth, Eighteenth, Nineteenth, Twentieth or Twenty-first Streets, as the city may elect, and also reserves a right of way from Forty-first Street to Sixteenth Street, immediately east of the Illinois Central and parallel thereto, for not more than two tracks, with the right to the city to cross the Illinois Central at Forty-first Street above grade, or to go under by tunnel, as the city may elect.

3. The city relinquishes to the South Park Commissioners the slip owned by the city located immediately south of Grant Park.

4. The rights reserved to the city for harbor and railroad purposes, if exercised, must be exercised by the city as a municipality, and cannot be alienated or disposed of by the city, except temporarily to a lessee, as contemplated under the provisions of the Act of June 10, 1911.

5. The Illinois Central Railroad Company and the South Park Commissioners, in the development of the contemplated lake shore improvements, shall provide proper retaining walls back of which the city's teams and the teams of the city's contractors may dump all ashes (but not garbage), refuse and excavation material taken from streets and alleys when paving same, or when installing conduits, water pipes, sewers, etc., or when excavating for municipal buildings or other improvements; said dumping facilities to be furnished free to the city for all wards bordering on the lake south of the Chicago River and north of Sixty-third Street. Retaining walls to be so constructed as to prevent contamination of bathing beaches at Twenty-fifth and Thirty-ninth Streets.

6. The South Park Commissioners shall provide a dumping ground on Morgan Shoal and connect same with the shore at Fifty-first Street by a temporary bridge for the use of the city's teams and the teams of the city's contractors, in accordance with plans shown in the Joint Report of the Committee on Bathing Beaches and Recreation Piers and the Lake Shore Reclamation Commission, to the Mayor and the City Council, dated December 15, 1910, or plans of similar character;\* substantial start to be made on Morgan Shoal within eighteen months from the entry of the final decree in the proposed adjustment between the Illinois Central Railroad Company and the South Park Commissioners.

7. The South Park Commissioners shall construct and maintain in perpetuity a public pier for passenger and excursion boats at Twenty-second Street accessible by bridge over, or tunnel under, the Illinois Central Railroad tracks; substantial start to be made in the construction of said pier within eighteen months from entry of final decree as aforesaid.

8. The South Park Commissioners shall maintain a permanent bathing beach, with adequate buildings and facilities therefor, between Twenty-second and Twenty-fifth Streets, accessible by tunnel or bridge, and the city shall turn over to said South Park Commissioners the city's temporary beach now at Twenty-fifth Street, which shall be maintained by said Park Commissioners, until a permanent beach and buildings shall be provided by said Park Commissioners.

9. The South Park Commissioners shall maintain a permanent bathing beach, with adequate buildings and facilities therefor, at or near Thirty-ninth Street and Lake Michigan, connection with said bathing beach to be by tunnel under the Illinois Central Railroad Company's tracks, said tunnel to connect with the city's small park west of the railroad tracks; the said small park to be

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\*For plans referred to, see Appendix K.

transferred by the city to the South Park Commissioners. Said tunnel shall be constructed substantially, as shown in the Joint Report of the Committee on Bathing Beaches and Recreation Piers and the Lake Shore Reclamation Commission, to the Mayor and City Council, dated December 15, 1910.

10. South Park Avenue shall be extended north from Twenty-second Street to Grant Park, by the South Park Commissioners, at their own expense, crossing the Illinois Central tracks above grade.

The several paragraphs of the foregoing memorandum were under discussion for several days and it was finally agreed between the city and the South Park Commissioners that the city's claims should be recognized in the form of a series of resolutions to be adopted by the South Park Commissioners, as follows:

WHEREAS, the City Council of the City of Chicago on November 20, 1911, passed an ordinance whereby it elected and determined to exercise the power and authority granted by an Act of the General Assembly of the State of Illinois, approved June 10, 1911, entitled, "An Act to enlarge the power of cities in relation to harbors, canals, wharves, docks, piers, slips and other harbor structures, facilities, improvements and utilities constructed or operated in connection therewith, to authorize the acquisition and condemnation of property and the use, occupation, reclamation and acquisition of the submerged lands of the State in carrying out such power, and to repeal all Acts or parts of Acts in conflict therewith," to acquire, own, use, occupy and reclaim all the submerged lands under the public waters of the State of Illinois within the limits or jurisdiction of or bordering on the City of Chicago and included within the district known as Harbor District Number Three, particularly described in said ordinance and bounded by a line extending eastward from the southeast corner of Grant Park one mile into Lake Michigan, thence extending southward at right angles to Thirty-first Street extended, to the intersection with the south line of said Thirty-first Street extended, thence extending westerly to the point of intersection with the original right-of-way of the Illinois Central Railroad Company and thence extending northerly along said right-of-way to the place of beginning; and

WHEREAS, the election of the City of Chicago, by said ordinance, if the same becomes effective, to acquire, own, use, occupy and reclaim the submerged lands within said Harbor District may interfere with the plans of the South Park Commissioners to connect Jackson Park and Grant Park by a boulevard or driveway extending over and upon the bed of the public waters lying in part within Harbor District Number Three, as described in said ordinance, and to acquire the riparian rights and submerged lands necessary therefor in accordance with an Act entitled "An Act authorizing park commissioners to acquire and improve submerged and shore lands for park purposes, providing for the payment therefor and granting unto such commissioners certain rights and powers and to riparian owners certain rights and titles," approved May 2, 1907, in force July 1, 1907, and it is a matter of public interest in the judgment of the South Park Commissioners that such plans be consummated;

Now, therefore, BE IT RESOLVED BY THE SOUTH PARK COMMISSIONERS, that if and in consideration that such steps are taken by the City of Chicago that said city does not elect or determine to use the right or license to use, occupy or reclaim the submerged lands within said Harbor District Number Three, as described in said ordinance, and does not take action which will prevent or interfere with the acquisition by the South Park Commissioners of the riparian rights and submerged lands under the waters of Lake Michigan between Grant Park and Jackson Park and the connection of said parks by a boulevard or driveway under and in accordance with said Act approved May 2, 1907, the South Park Commissioners hereby undertake and agree as follows:

(1) The South Park Commissioners agree that all riparian rights in and to the shore of Lake Michigan from the north line of Sixteenth Street extended



east to the north line of Twenty-second Street extended east and the submerged lands adjacent to said shore not filled in or to be filled in by the South Park Commissioners, shall, so far as the South Park Commissioners is concerned, belong to the City of Chicago in perpetuity, to be used by said city, however, only in the event that such submerged lands may be required by said city for harbor purposes.

(2) The South Park Commissioners agree that the City of Chicago may enter across and over any lands which may be owned or acquired by said South Park Commissioners with not more than six (6) tracks on or adjacent to either Sixteenth, Eighteenth, Nineteenth, Twentieth or Twenty-first Streets, and may also use and occupy a right-of-way from Forty-first Street to Sixteenth Street for not more than four (4) tracks located immediately east of the right-of-way of the Illinois Central Railroad Company; it being further understood that the Commissioners will grant to the city free and suitable access to said harbor when established.

(3) It is understood that said City of Chicago in consideration of the various undertakings of the South Park Commissioners provided for herein, shall and will convey to said South Park Commissioners the slip now owned by the city located directly south of Grant Park.

(4) It is further understood that the rights hereby granted to said City of Chicago for harbor and railroad purposes shall not be exercised by said City of Chicago as a municipal corporation under and in accordance with the provisions of said Act in relation to harbors, approved June 10, 1911.

(5) Said South Park Commissioners agree that it will arrange as soon as may be for the construction and maintenance of a public pier for passenger and excursion boats at Twenty-second Street, accessible by bridge over or tunnels under the tracks of the Illinois Central Railroad Company.

(6) Said South Park Commissioners agree that it will install and maintain two public bathing beaches with adequate buildings and facilities between Twenty-second Street and Jackson Park, said beaches to be accessible by tunnels under or bridges over the tracks of the Illinois Central Railroad Company.

(7) Said South Park Commissioners agree that whenever the City of Chicago turns over South Park Avenue to said South Park Commissioners for boulevard purposes, it will cause said South Park Avenue to be extended without expense to the City of Chicago northward from Twenty-second Street across the Illinois Central Railroad Company's tracks and will cause a suitable viaduct to be built, connecting said South Park Avenue as extended, with the park property on the east side of the Illinois Central Railroad Company's tracks.

The above is in accordance with the understanding reached at the conference in Mayor Harrison's office between Hon. John Barton Payne, representing the South Park Commissioners, their counsel, Hon. Robert Redfield and Hon. Theodore K. Long, representing the City Council, at which I was also present as counsel for the city.

(Signed) MACLAY HOYNE,  
First Assistant Corporation Counsel.

November 24, 1911

O. K.

THEODORE K. LONG,  
Chairman Lake Shore Reclamation Commission.

The resolutions as above set forth were formally adopted by the South Park Commissioners November 25, 1911.\* Two days later the writer received the following note, which explains itself:

1400 First National Bank Building.

November the twenty-seventh.

MY DEAR SIR:—Will you do me the kindness to meet a few friends at dinner at the Chicago Club on Friday, December 1, 1911, at seven o'clock,

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\*See Extract from the Chicago Tribune of November 26, 1911, Appendix E.

to consider the negotiations now pending between the South Park Commissioners and the Illinois Central Railroad Company in reference to acquiring the riparian rights from Grant Park south, and other matters of public interest involved in the negotiations.

Yours very truly,

JOHN BARTON PAYNE.

*Hon. Theodore K. Long, 4823 Kimbark Avenue, Chicago, Illinois.*

The following were present at Judge Payne's dinner:

Hon. Carter H. Harrison, Mayor,  
Mr. Victor F. Lawson, of the *News*,  
Mr. Daniel H. Burnham, architect,  
Mr. John Barton Payne, Chairman, South Park Commissioners,  
Mr. H. H. Kohlfaat, of the *Record Herald*,  
Lieut. Col. Geo. A. Zinn, Eng. United States Army,  
Mr. James Keeley, of the *Chicago Tribune*,  
Mr. E. B. Butler, Chairman, Lake Parks Committee of the Chicago Plan,  
Mr. Edward Tilden, South Park Commissioner,  
Mr. Henry G. Foreman, South Park Commissioner,  
Mr. Lester L. Jones, of the *Chicago Journal*,  
Mr. John F. Foster, Superintendent for South Park Commissioners,  
Mr. Stanley Field, of Marshall Field & Co.,  
Mr. Charles L. Hutchinson, South Park Commissioner,  
Mr. Joseph Donnersberger, South Park Commissioner,  
Mr. J. C. Schaefer, of the *Chicago Post*,  
Mr. Robert Redfield, Attorney for South Park Commissioners,  
Mr. Charles H. Wacker, of the Chicago Plan Commission,  
Mr. William H. Sexton, Corporation Counsel, and  
Mr. Theo. K. Long, Chairman, Lake Shore Reclamation Commission.

At the conference held at the Chicago Club all those present expressed themselves in favor of the contemplated lake shore improvement. The writer stated in his remarks that he was strongly in favor of the improvement, provided always that the details of the agreement with the Illinois Central Railroad Company properly secured the city in such restrictions and limitations as were requisite to protect the interests of the public. The following correspondence which took place a few days later is of interest:

December 5, 1911.

*Hon. Carter H. Harrison, Mayor.*

DEAR MR. MAYOR:—Referring to our recent arrangement with the South Park Commissioners concerning the lake shore adjustment pending with the Illinois Central Railroad Company, it occurs to me that we should keep thoroughly in mind what the city must demand of the railroad company in consideration of the vacation of Indiana Avenue and a certain alley, both of which vacations are necessary to the railroad in its contemplated depot changes.

The city should require as conditions precedent, the following:

1. The right to extend South Park boulevard across the Illinois Central tracks and yards north of Grant Park to the Chicago River, such extension to be above grade and to be at the city's expense.
2. The right to cross the Illinois Central right-of-way with necessary railroad tracks and streets to connect with the proposed municipal harbor, in the event the city determines to build such harbor south of Grant Park.
3. No machine shops, repair shops, coal yards, freight depots, round-houses, or other objectionable structures shall be erected on any portion of

the made or submerged lands acquired by the railroad from the South Park Commissioners, or from other parties, lying east of the railroad company's original right-of-way and south of Twenty-second Street.

I take the liberty of calling your attention to these matters at this time so that they may not be overlooked when we come to close with the Illinois Central.

Very truly yours,  
THEODORE K. LONG,  
*Chairman, Lake Shore Reclamation Commission.*

CARTER H. HARRISON,  
*Mayor.*

CITY OF CHICAGO.  
OFFICE OF THE MAYOR.

CHICAGO, December 7, 1911.

*Mr. Theodore K. Long, Chairman, Lake Shore Reclamation Commission, 4823 Kimbark Avenue, City.*

DEAR SIR:—I am in receipt of your letter of December 5th containing suggestions for a basis of negotiations between the Illinois Central Railway Company and the city, in connection with the railroad's contemplated depot changes.

Yours very truly,  
CARTER H. HARRISON,  
*Mayor.*

On December 11, 1912, the Illinois Central Railroad Company and the South Park Commissioners entered into an agreement establishing a shore line from Grant Park to Fifty-first Street, surrendering to the Park Commissioners the riparian rights and providing for the location of the Field Museum at Twelfth Street immediately south of Grant Park, and purporting to cover the several desiderata demanded by the city in the memorandum of November 10th and discussed at the meeting held in the Mayor's office November 22nd; and the attorneys for the parties to the agreement of December 11, 1912, prepared an ordinance for submission to the City Council, ratifying and confirming said agreement.\* Said ordinance and agreement were first exhibited for discussion at a conference held at the LaSalle Hotel, December 14, 1911, at which were present, Messrs. John Barton Payne, Edward B. Butler, Joseph Donnersberger, Charles L. Hutchinson, Charles H. Wacker, Robert Redfield, Harry E. Littler, Blewett Lee, General Solicitor Illinois Central Railroad Co., A. S. Baldwin, Chief Engineer of said company, and Theodore K. Long.

After considerable desultory discussion, the conference adjourned, with the understanding on the part of the city's representatives, that the city's demands would be acceded to. However, the parties in interest not having been able to remove all the elements of difference, a further conference was held at the Mayor's office, December 18, 1911, at 12:45 p. m., at which were

\*For copy of said proposed ordinance containing therein the agreement of December 11, 1912, aforesaid, see Appendix F.

present Mayor Harrison, Maclay Hoyne, Robert Redfield, Harry E. Littler, Edward B. Butler, Charles L. Hutchinson and the writer. At this conference it was agreed that the city's contention to place certain restrictions upon the use of the Illinois Central lands was tenable and that the proposed ordinance should be amended accordingly, and it was agreed that Messrs. Butler and Hutchinson should confer with the railroad authorities in reference thereto, and report the results of such conference at 2:30 P. M. the same day. At the afternoon meeting in the Mayor's office, there were present in addition to those present in the forenoon, Mr. Charles H. Markham, President of the Illinois Central Railroad Company, Mr. Blewett Lee, its General Solicitor, Mr. A. S. Baldwin, its Chief Engineer and Miss Ryan, stenographer.

This conference lasted until late in the evening and the result of its efforts was the ordinance as finally presented to the Committee on Harbors, Wharves and Bridges the same evening, just as the committee was on the point of adjourning. By reason of the lateness of the hour, the committee refused to consider the ordinance and adjourned to December 23rd, for that purpose.

2. PROCEEDINGS BEFORE THE COMMITTEE ON HARBORS, WHARVES AND BRIDGES OF THE CITY COUNCIL—REFERENCE OF ENTIRE SUBJECT MATTER TO THE CORPORATION COUNSEL, DECEMBER 23, 1912—LETTER TO THE CORPORATION COUNSEL, JANUARY 6, 1912—CORRESPONDENCE WITH JOHN BARTON PAYNE—OPINION OF THE CORPORATION COUNSEL—REPORT OF COMMITTEE MEETINGS, JANUARY 23, 24, 26, 29, 30 AND FEBRUARY 2 AND 5.

The committee at its meeting held on December 23rd, referred the entire matter to the Corporation Counsel for an opinion, and later, on January 6th, the following letter, which was dictated by the writer, was forwarded to the Assistant Corporation Counsel, who had personal charge of the subject.

CHICAGO, January 6, 1912.

*Hon. Maclay Hoyne, First Assistant Corporation Counsel, City Hall.*

DEAR SIR:—On December 23, 1911, our committee respectfully referred to you an ordinance prepared by the attorney for the South Park Commissioners and the Illinois Central Railroad Company relating to certain submerged and other lands along the shore of Lake Michigan between Twelfth and Fifty-first Streets, and sundry other matters in connection with the proposed adjustment of the boundary line between the lands of the South Park Commissioners and the Illinois Central Railroad Company.

Our committee desires to be advised as to whether said ordinance properly safeguards the interests of the city in the following:

1. The right of the city to locate a harbor between Twenty-second and Sixteenth Streets on the submerged lands adjacent to the proposed made lands of the South Park Commissioners.

2. The right reserved to the city of adequate access to said harbor by viaducts for street and railway purposes across the lands of the Illinois Central Railroad Company and the South Park Commissioners between Sixteenth and Twenty-second Streets and also at Forty-first Street.

3. A right of way reserved to the city for railroad tracks from Forty-first Street north to Sixteenth Street east of the lands of the Illinois Central Railroad Company.

4. The right granted by the Illinois Central Railroad Company to the South Park Commissioners or to the City of Chicago to extend South Park Boulevard across the railroad tracks and railroad lands at Twenty-second Street in an easterly or northerly direction by viaduct, the full width of said boulevard, so as to connect with the park lands east of the lands of the Illinois Central Railroad Company.

5. A limitation upon all submerged, made and other lands lying west of the proposed boundary line between the Illinois Central Railroad Company and the South Park Commissioners, between Thirty-first and Fifty-first Streets, restricting the use of said lands for tracks, switches, turn-outs and passenger stations only, unless otherwise authorized by express consent of the City Council.

6. The obligation of the South Park Commissioners to install and maintain in perpetuity two public bathing beaches between Twenty-second Street and Jackson Park on the shore of Lake Michigan.

7. The obligation of the South Park Commissioners to install and maintain a public pier for passenger and excursion boats at or near Twenty-second Street.

In addition to the foregoing I shall be pleased to have you advise our committee of any and all things growing out of or connected with said ordinance that in your opinion will in any way enlighten the committee and aid it in arriving at a correct conclusion in reference thereto.

Yours very truly,

HARRY E. LITTLER,

*Chairman of Committee on Harbors, Wharves and Bridges.*

A meeting of the Committee on Harbors, Wharves and Bridges was called for January 17, 1912, to receive the opinion of the Corporation Counsel,\* and in the meantime the following correspondence, which is self-explanatory, passed between the parties thereto.

SOUTH PARK COMMISSIONERS  
57th St. and Cottage Grove Ave.  
Chicago.

COMMISSIONERS  
JOSEPH DONNERSEERGER  
EDWARD TILDEN  
JOHN BARTON PAYNE  
HENRY G. FOREMAN  
CHARLES L. HUTCHINSON

January 16, 1912.

DEAR ALDERMAN LONG:—I regret exceedingly that I cannot be present at the meeting of the committee tomorrow, but feeling that it was my duty that I should express my views, I have taken the liberty of writing the chairman, Mr. Littler, a letter, copy of which I enclose herewith.

I want you personally to know how I feel about it, and I believe that we have all done the best we can, and that the ordinance should be amended so that there will not be any question about its acceptance by the railroad company.

I trust, therefore, you will try to put it through as suggested.

With kindest regards,

Yours very truly,

JOHN BARTON PAYNE.

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\*See Opinion of Corporation Counsel, together with new ordinance recommended by him, Appendix G.

SOUTH PARK COMMISSIONERS  
57th St. and Cottage Grove Ave.  
Chicago.

COMMISSIONERS  
JOSEPH DONNERSBERGER  
EDWARD TILDEN  
JOHN BARTON PAYNE  
HENRY G. FOREMAN  
CHARLES L. HUTCHINSON

January 16, 1912.

MY DEAR ALDERMAN:—I have been shown the draft of the ordinance as approved by the Corporation Counsel, and a copy of the letter addressed to the Mayor by the President of the Illinois Central Railroad Company. Apparently the only stumbling block now in the way is whether the restriction contained in Section 9 of the ordinance as to the use of the right of way of the company shall cover not only the lands to be acquired by the railroad company under this contract, but the lands which the company now owns.

I do not believe we have any right to impose any conditions upon the lands which are not involved in this transaction, and I believe the public is sufficiently protected by a condition covering the lands to be acquired.

I, therefore, beg to urge that the draft of the ordinance be amended by substituting the word "east" for the word "west" in the ninth line from the bottom on page 19 of the document dated January 16, 1912, containing the opinion of the Corporation Counsel and the new ordinance prepared by the Corporation Counsel, so that the sentence will read "lying west of the proposed boundary line and east of the east line of the present 200-foot right of way," etc.

Yours very truly,

JOHN BARTON PAYNE,  
*President.*

*Hon. Harry E. Littler, Chairman, Committee on Harbor, Wharves and Bridges, Chicago, Illinois.*

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LAKE SHORE RECLAMATION COMMISSION  
OF THE CITY COUNCIL OF THE CITY OF CHICAGO.

THEODORE K. LONG, *Chairman.*

*Corporation Counsel.*  
WM. H. SEXTON,

G. B. YOUNG, M. D.,  
*Commissioner of Health.*

January 18, 1912.

*Hon. John Barton Payne, First National Bank Bldg., Chicago.*

MY DEAR JUDGE PAYNE:—Replying to your kindly favor of the 16th inst., I beg to say that while I agree with you in the main, I regret that I am not in full accord with your view relative to the restriction on the use of the company's present right of way between Thirty-first Street and Fifty-first Street.

I feel that a failure to impose a proper restriction upon these lands would be the beginning of the end of Kenwood and Hyde Park as a desirable urban residential district. The territory south of Thirty-first street and east of State street, comprising Hyde Park and Kenwood, contains a population of approximately a quarter of a million people. It is one of the largest distinctively residential districts within the City of Chicago and includes, as you know, a large number of churches, the Chicago University and other educational institutions.

The total assessed valuation of this district runs far up into the hundreds of millions, and the installation of extensive railroad interests from Thirty-first Street to Fifty-first Street along the lake shore would not only render all this territory much less desirable for residential purposes, but would materially, in my opinion, reduce its value and entail a serious loss upon those who have invested their money in that section.

That the company proposes to use its present right of way for objectionable purposes is apparent for two reasons, namely, its refusal to consent to a proper limitation upon the use of said right of way, and the

admission of its officials to the writer that the purpose of the company is, in the event it acquires the submerged lands, to move its tracks to the east side of the to be acquired lands, so as to leave the present right of way free for other uses in connection with the business of the railroad. This I cannot consent to.

Nor do I think the exigencies of the case are such as to warrant the city in acceding to the company's demand. The company is acquiring a splendid concession in the 159 acres which accrue to it in fee simple under the terms of its contract with the South Park Commissioners. Indeed, I feel that the company should have been required to concede the one other condition proposed by me, namely, the right reserved to the city to extend South Park Boulevard across the company's tracks north of Grant Park to the Chicago River; but this point has been waived and needs no further consideration.

If, however, the company does not accept the ordinance with the proper limitation upon the lands in question, then I shall ask the city to move at once and locate a harbor district from Twelfth Street to Thirty-ninth Street and a bathing beach from Thirty-ninth Street to Forty-third Street and another at Fifty-first Street; so as to take complete possession of the lake shore and the company's riparian rights and forever shut off the company from acquiring any lands east of its present right of way.

This could, at most, result only in a slight delay of the lake shore improvement, and would, in my opinion, in the long run, give the public a much better result than can possibly accrue to it under the arrangement now under consideration.

Of course, I much prefer to see the present deal go through, and I cannot comprehend how the Illinois Central can refuse to accept the splendid advantages accruing to it even though it be compelled to consent to a limitation upon the use of its present right of way south of Thirty-first Street.

Thanking you for calling my attention to this matter, and with kindest regards, I am,

Yours very truly,

THEODORE K. LONG.

The aforesaid opinion of the Corporation Counsel,\* together with the new ordinance recommended by him, was presented to the committee on January 17, 1912. On motion of the writer, an adjournment was taken to January 23rd, to allow the committee time to read the opinion and ordinance.

As the succeeding meetings of the committee involve proceedings and discussions of more than passing interest to the public, the writer has deemed it desirable to publish full stenographic reports thereof as follows:

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\*For Opinion of Corporation Counsel, see Appendix G.

## STENOGRAPHIC REPORTS OF COMMITTEE MEETINGS.

PROCEEDINGS OF THE COMMITTEE ON HARBORS, WHARVES AND  
BRIDGES OF THE CITY COUNCIL OF CHICAGO.

Tuesday, January 23, 1912, 2:30 o'clock P. M.

The committee was called to order by the chairman, Alderman Littler.

Secretary Harrah called the roll showing the following members of the committee present: Aldermen Littler, Long, Nance, Emerson, Brennan, Geiger, Hey, Block and Derpa. Others present: Mayor Harrison, Lessing Rosenthal, George C. Sikes, Allen B. Pond, Charles H. Wacker, Joseph Donnersberger, Charles L. Hutchinson, E. B. Butler, Harry F. Lee, Mr. Van Vlissingen, Frank Comerford, Robert Redfield, Wm. H. Sexton, Maclay Hoyne, and Mr. Williams of the Sanitary District of Chicago.

The CHAIRMAN: Quorum present.

Gentlemen, this is a meeting called together for the purpose of discussing this ordinance in an open hearing, and we would like suggestions from some member of the committee as to how we should proceed—whether we shall take up this ordinance in its entirety first and discuss it, or whether we shall take it up section by section.

Ald. NANCE: I would suggest, Mr. Chairman, that we take up the ordinance paragraph by paragraph for consideration.

The CHAIRMAN: There are some here who would like to be heard on some particular point and would it not be well to have a general discussion on the ordinance as a whole, and then after we have heard from those who wish to be heard, let the committee take it up section by section for adoption.

Ald. NANCE: That would be perfectly satisfactory to me.

The CHAIRMAN: I think, perhaps, that would be the better way to proceed.

Ald. BLOCK: If there is any information other than contained in the opinion of the Corporation Counsel, I think we ought to have it at this time.

The CHAIRMAN: Yes, that would be the best, I take it.

Ald. LONG: Before we proceed with the general discussion I think the Corporation Counsel has some amendments to submit in addition to his printed opinion. I think it would be well to have those amendments read at the start of the hearing.

The SECRETARY: Here is a letter dated January 23, addressed to the chairman. The communication recommends the



insertion of the following words after the word "land" in the fifth line in the second paragraph on page 8, making it read as follows:

"The important legal question that arises in connection with Section 9, or one similar thereto, is whether the City of Chicago can by ordinance restrict the Illinois Central Railroad Company to certain or particular uses of the newly acquired land taken from the 200-foot right of way between Thirty-first and Fifty-first Street, in view of the broad powers above referred to given to the South Park Commissioners by the Act of 1907," etc.

The second correction is by striking out the word "railroad" in the fourth line from the last line of paragraph 2 of Section 9 as printed on page 19. So the five last lines of the next to the last paragraph on page 19 will read as follows:

"Two hundred foot right of way of the Illinois Central Railroad Company between Thirty-first and Fifty-first Streets, shall not be used for any purpose other than track, switches, turnouts and passenger stations, without the express consent of the City Council of the City of Chicago."

That is all.

Ald. LONG: I would suggest that you invite any committees or representatives to be heard here at this time.

The CHAIRMAN: I would like to hear from the spokesman of any committee which has appeared here for a specific purpose.

Mr. HARRY F. LEE: Mr. Chairman, I desire to read a brief statement; it will take about four minutes. My paper has invited an attorney whom I would like to have your permission to address you.

Ald. LONG: I would be very glad to hear from Mr. Lee or his attorney, but we have specially announced that certain parties would be given a hearing here today, and they are here for that purpose. I don't know that Mr. Lee ought to be given the right of way.

The CHAIRMAN: I don't know that there should be any preference given at all. I want everyone to be heard. Whom do you represent?

Mr. LEE: I represent myself as a property owner and my newspaper, Mr. Chairman. I was invited to speak here this afternoon, and I would like to be heard at this time for the reason that my attorney has to return to court in a short time. It will not make any difference in what order. It is a matter of personal courtesy.

The CHAIRMAN: Go ahead.

Ald. NANCE: Would it not be well for each party to submit his name and announce whom he represents? He states he represents a paper, what paper is it?

Mr. LEE: The *Calumet Record*.

The CHAIRMAN: In other words, you represent the Calumet District?

Ald. LONG: He does not say so. He says he represents his paper.

The CHAIRMAN: It is well understood.

Mr. LEE: This ordinance in the words of the Corporation Counsel is an endeavor to embody a tentative agreement. This agreement as represented carries out the ideas of the South Park-Illinois Central contract slightly modified. One of the lawyers who signed this opinion admitted to me personally that the main purpose of the deal was a gigantic steal of public lands. I asked him why in the name of God and the City of Chicago the opinion did not so state.

Ald. LONG: Mr. Chairman, now I object to anything of that kind. If Mr. Lee wants to come here and give testimony let him give names and dates, not innuendoes. Let us have facts or nothing. I am opposed to using the public time in this way. We do not want indefinite innuendoes.

Mr. SEXTON: Mr. Lee, will you read that statement over again? I would like to have the committee hear it again.

The CHAIRMAN: All right, Mr. Lee.

Mr. LEE: I will state that the lawyer admitted to me in a personal way—I do not feel at liberty to state his name at this time without his permission. I should judge if he had wished his name known he would have embodied that remark in his opinion.

The CHAIRMAN: You should give us the facts.

Mr. SEXTON: Will you read that statement again, Mr. Lee?

The CHAIRMAN: Please read that statement again.

Mr. LEE: One of the lawyers who signed this opinion stated that the main purpose was a gigantic steal of public lands.

Mr. SEXTON: Which opinion do you refer to—of the Corporation Counsel?

Mr. LEE: Yes, sir.

Mr. SEXTON: The names of James G. Skinner and Maclay Hoyne are signed to the opinion. Was any statement of that kind made to you by them? Do you refer to Mr. Hoyne or Mr. Skinner?

Mr. LEE: Mr. Maclay Hoyne was the man I was talking with.

Mr. HOYNE: Where?

Mr. LEE: In this City Hall, at the entrance to the elevators about a week ago when I came into the City Hall.

Mr. HOYNE: I would like to state that Mr. Lee has made several efforts to have a talk with me, and I told him it was impossible for me to be here. I must deny ever having made any

such statement to Mr. Lee, and I deny it flatly. The only time I recollect of having met you since you have been trying to get hold of me was one morning that I came down with you on the Illinois Central.

Mr. LEE: That is the morning I refer to.

Mr. HOYNE: I did not speak with you. I deny that language.

Mr. LEE: It is a question of veracity between us.

The CHAIRMAN: I do not see any reason for your entering into a discussion of what somebody else said of why we shall or shall not enter into this contract.

Mr. LEE: Very well, I will leave that out and proceed, with facts that cannot be disputed, I think. I asked him why in the name of God and the City of Chicago the opinion did not so state. His reply was a quotation from the last paragraph on page ten:

"We have kept in mind in the foregoing discussion that this department has nothing to do with the wisdom or policy of the proposed ordinance, which is a subject committed to the Mayor and the City Council. In framing this ordinance we have endeavored to embody what we understand to be the tentative agreement between the Illinois Central R. R.," etc.

The reason that this proposed deal is a steal of public lands is that the Illinois Central gives nothing in return for the 160 odd acres it would receive. It pretends to give riparian rights, which in the language of the contract, "it claims". And if its claims are not good, the South Park pays half and the I. C. pays half to buy up the adverse interests. A real estate deal without precedent, where one party only claims its rights and both parties join in making them good.

The State of Illinois and the City of Chicago are now parties to a suit still pending, which questions not only the riparian rights, but the right of occupation by the Illinois Central of much of its present right of way along this stretch. Decisions of the Supreme Court of the United States deny the alleged riparian rights of the Illinois Central along a great part of this distance. But although the State and city are parties to a suit now pending on this very point, and although the Supreme Court of the United States has rendered a decision, the South Park Board forsooth presumes to settle the case out of court and makes a contract giving the Illinois Central 160 acres of land worth millions, and furthermore confirming its present holdings, in return for riparian rights that do not exist according to the highest authority in the land.

My newspaper, the *Calumet Record*, has retained a lawyer, Hon. Frank Comerford, who will explain more in detail the legal phases of this matter. I might add that in case the City Council should approve this monstrous bargain, which I can-

not believe possible, we are prepared to contest the matter through the courts.

Having established this bald theft, we must examine further for possible explanation. Certain gentlemen allied with the packing interests of this city were recently appointed members of the South Park Board, burning with zeal to serve the dear public for the munificent salary of nothing per year. They are members of the board who just concluded this secret contract, that came to light only when the city was about to establish a harbor district there. The report of the bureau of public efficiency yesterday recommending the abolition of these park boards and their merging into a department of the city government caused no surprise among those who are familiar with their star chamber methods.

The packers have a railroad that connects with the Illinois Central in the vicinity of Forty-first Street. The Illinois Central gets the right to sell this new land that the board is about to present to them. Is it possible that the Illinois Central and the packers' railroad will divide the spoils? Did these gentlemen get themselves appointed for this very purpose? Is the whole thing a conspiracy to steal public lands from the very start? These are the facts. And these are the questions that must be answered.

Last night the Mayor appointed the Inter-Lakes Traffic Commission, whose duty it is to urge the construction of harbors at other lake cities. When they are asked at Buffalo and Cleveland and Toledo what Chicago is doing, will they be forced to reply: "We have allowed our river to be stolen by railroads and private interests, we have barricaded it with our own bridges; we have caused a current there that seriously interferes with navigation and we have not yet planned a single project for its improvement for harbor and terminal purposes. We have located a harbor site on the North Side in a most inconvenient spot and one evidently not approved by the government engineers, just as it was never specifically approved by any other engineer who ever publicly expressed an opinion upon it. We have as yet planned nothing in the Calumet Region." And to the question, "What have you done with your lake front?" shall the answer be: "Oh, the lake front, well, we gave up the 4½ miles we had left to the Illinois Central in exchange for riparian rights that the United States Supreme Court said did not exist, and then we built the breakwater for the railroad ourselves and filled in the lake and made a boulevard on the lakeside edge"?

And in this connection I cannot help but refer to the pictured lies that have appeared in the city press and are now going the rounds of the magazines, the dream of some artist that

would cost hundreds of millions of dollars, and at the rate of the construction of Grant Park, which is our only possible criterion, it would take to complete it some three hundred years.

Cities of the old world and our own country are utilizing or preparing to utilize every available foot of their water front for harbor, dockage and terminal purposes. New York has 306 docks, of which the city owns 76, and the city's dock property is worth over \$200,000,000, yielding a revenue of many millions annually. Stockholm and every other old world port can teach us a valuable lesson in this respect. I consider the development of the rivers and other inland waters more important, and I have advised this committee that they should be developed first. But if the committee does not believe in this, in Heaven's name do not destroy all chance of harbor development. Grant Park should be a harbor site and the whole lake front should be reserved for future development.

Another paragraph and I am through. The money of the South Park should be spent developing the small park sites already acquired by the board, for which purpose the bond issue of several years ago was authorized. There are half a dozen of these sites now lying fallow in the Calumet region. The City Council cannot compel the proper expenditure of this money until the park systems become merged with the city government, which I hope and pray will be soon, but you can stop this carefully planned steal of the public domain and this outrageous act that would cut the city off forever from its greatest asset: navigation facilities and terminals—which are the greatest possession of all the world's great cities—the reason for its location here and its main hope in the future for protection from railroad domination, at present the greatest public crime of the country.

Let us not commit industrial and commercial suicide by allowing this steal. Let us not voluntarily allow the enemy to steal our most valuable ammunition.

Now, Mr. Chairman, I will ask that Mr. Comerford be allowed to explain the legal features at issue.

Ald. EMERSON: Mr. Lee made a statement there—an accusation. In justice to this committee you ought to state more specifically. You call this a steal, Mr. Lee. Now, we would like to have more proof. You made a charge here against the Corporation Counsel. You should give us more proof. You either misunderstood him or your imagination was running away with you. Now I am a neighbor of yours. I am interested in the Calumet District, but I cannot sit here in this committee and allow you or any other man to insult the Corporation Counsel or to call this a steal. If it is a steal, then you should prove it.

Mr. LEE: I stated it was a steal for the reason that the railroad is to receive, in my opinion, public lands and is to give nothing in return. In my opinion, that constitutes a steal. I think that will be generally admitted. They are given something for nothing.

Ald. LONG: Mr. Chairman, there is no necessity of our running away with personalities in this matter. We are not here for that purpose. I do not propose to sit here and listen to mere personal abuse fired off by irresponsible parties. This man who has just taken his seat has seen fit to charge that this whole proposition is a steal. He has tried to besmirch every member of the South Park Board, and the members of the Corporation Counsel's office, the Mayor and every man who has had anything to do with this transaction. It is an insult to this committee and we have had quite enough of that kind of talk. You have not given us anything but abuse and innuendo and accusation without any proof. I ask the Chairman that we at this time hear from persons who are entitled to be heard along parliamentary lines. I think it is absurd to take the time of this committee with this kind of stuff.

The CHAIRMAN: I presumed that Mr. Lee would give us facts.

Ald. LONG: He has not given a single fact.

The CHAIRMAN: I wanted to give everybody a chance to state why we should not enter into this contract.

Mr. LEE: I have my attorney here to explain the legal points I have raised.

The CHAIRMAN: I do not see any reason for listening to legal points.

Mr. LEE: If the Illinois Central is going to get this land it is supposed to give something in return. If it is shown that the Illinois Central is not competent to give anything in return, I think that is pertinent evidence to be heard.

The CHAIRMAN: We have a Corporation Counsel that will decide whether we have a right to enter into this contract.

Mr. LEE: Will you permit my attorney to address the committee, Mr. Chairman?

The CHAIRMAN: I have no particular objection if he doesn't take up too much time.

Mr. LEE: He will be very brief, I am sure.

Mr. FRANK COMERFORD: Mr. Chairman and gentlemen of the committee, I want to enter my disclaimer to any knowledge of interest in the controversy that has arisen, growing out of an attack upon the integrity of members of this committee or members of the South Park Board. It is not my purpose to characterize the conduct or the acts of any of the public officials concerned in the matter before your honorable committee.

I shall confine myself to a discussion of the contract between the Illinois Central Railroad and the Park Board, the ordinance pending before your committee; the legislative acts conferring the authority on the Park Board and the legal right and duty of the City of Chicago at this time to refuse a ratification of the proposed contract on the ground that it is against public policy and is grossly unmoral. In this connection I may have occasion to refer to Supreme Court decisions, both of the Supreme Court of the United States and the State of Illinois, that have a recognized bearing upon the subject matter before your committee. These are the matters to which I shall address myself and if you bear with me I shall attempt to make my remarks as brief and pointed as possible in view of the magnitude and importance of the subject.

I begin with this premise—that the committee sitting to-day is vitally interested in the proposed ordinance and the contract between the Illinois Central and the Park Board that is conditioned upon the passage of this ordinance. I believe that your committee is eager and anxious for every fact that may be necessary to an intelligent determination of the issues involved. The point of view that I may submit and the facts in support of it may aid the committee in arriving at a more satisfactory determination of the questions involved. If I succeed in supplying a single fact that may be useful to this committee I shall feel repaid for my effort.

The Corporation Counsel of the City of Chicago, on page 10 of his opinion, very clearly and, in my judgment, very properly relieves himself of all responsibility for the ordinance. The Corporation Counsel's office has refused to concern itself with the wisdom or policy of the proposed ordinance. On page 10 of the opinion as printed we find the following:

"We have kept in mind in the foregoing discussion that this department has nothing to do with the wisdom or policy of the proposed ordinance, which is a subject committed to the Mayor and City Council. In framing this ordinance we have endeavored to embody what we understand to be the tentative agreement between the Illinois Central Company, the South Park Commissioners and the City of Chicago as represented by the Mayor, the chairman of your committee and the chairman of your subcommittee."

Ald. GEIGER: I would like to ask the gentleman one question: if that is not the case in all opinions given by the Corporation Counsel?

Mr. COMERFORD: I believe it is.

Ald. GEIGER: Why should you refer to it as an exception?

Mr. COMERFORD: I do not refer to it as an exception. I refer to it because it emphasizes the fact that this is the proper place to present questions involving the wisdom and good pub-

lic policy of the ordinance and that the Corporation Counsel in his opinion has affirmatively disclaimed any responsibility for the wisdom or good public policy of the ordinance submitted.

Ald. GEIGER: It never does pass upon questions of public policy.

Mr. COMERFORD: Therefore, in the case before us the opinion of the Corporation Counsel's office points to the propriety of raising questions of public policy before this body.

Continuing, I beg to invite your attention to page 3 of the Corporation Counsel's opinion where the following statement is to be found:

"Other sections are also ambiguous and require correction, but our basic objection to the proposed ordinance is the blanket ratification of the contract of December 11, 1911, found in Section 1 thereof."

Again, on page 2 of the Corporation Counsel's opinion, we find the following:

"The proposed ordinance as presented to your committee is unsatisfactory because it contains a blanket ratification of the agreement between the South Park Commissioners and the Illinois Central Railroad Company, to which agreement the City of Chicago is not a party. The City of Chicago took no part in the preparation of said agreement."

The ordinance before you at this time is one substituted for the ordinance presented by the South Park Commissioners with the draft of the contract—

Mr. REDFIELD: The ordinance was not submitted by the South Park Board.

Mr. COMERFORD: It was my understanding that it came from the South Park Board. I may or may not be correct in this. However, it will take less time to furnish me with the fact than to criticise me for my statement of my understanding of the origin of the original ordinance.

The fact still remains that the ordinance before you in my opinion amounts to a confirmation and ratification of the contract between the South Park Board and the Illinois Central. It is true that in the new ordinance drafted by the office of the Corporation Counsel the words of specific confirmation and ratification have been eliminated. In other words, the present ordinance does not by recital affirmatively confirm or ratify the contract as contingent upon the passage of an ordinance by the City of Chicago, that any ordinance passed by the City of Chicago giving to the Illinois Central the right to use the land conferred on the Illinois Central by the South Park Board's contract with it for railroad purposes is in legal effect a complete confirmation and ratification of the contract. The ordinance and contract are interdependent and must be construed together. Mere words of ratification could not add anything to



the legal effect of an ordinance that in fact ratifies the proposed contract. In other words, it is my contention that the ordinance before you in its effect is as much of a ratification as it could be. It makes possible the contract between the Illinois Central and the South Park Board.

Therefore, in my opinion, it follows that this committee in considering the present ordinance should examine into the contract between the Illinois Central and the South Park Board and determine whether or not that contract is wise in its provisions and is a contract fair in its terms. There is no distinction between the citizen of Chicago as an individual and as a citizen of the State of Illinois. He is both. His interest is the common good of both. It is his interest that you as public officials represent.

There are circumstances connected with the passage of this ordinance at this time (and I do not mean to criticise any one) that should receive your best attention and should be considered before action is taken on the ordinance.

The public policy of the State of Illinois is fixed and declared in the enactments of the Legislature of this State.

The Legislature of the State of Illinois at public expense authorized a committee to investigate the title of the Illinois Central to the property at present in its possession and its claim to riparian rights thereunder. That committee has made an exhaustive, extensive and costly investigation of the facts and has made its report to the Legislature of the State. Thousands of dollars of the taxpayers' money has been spent in the securing of the facts. The committee reported its findings to the General Assembly in the following language—I quote from page 185 of the so-called Chipperfield Report:

"The City of Chicago realizes, but apparently with utter indifference, that its lake front from Fifty-first Street to the Chicago River is in the hands of the Illinois Central, and it is the opinion of this committee that of the two hundred and sixty-five acres which it occupies, its holdings, with the exception of several small tracts, is entirely without right, and exists simply by forcible occupation and continued and vigorous aggression that has embraced all territory in that vicinity which has not been otherwise occupied."

The report of this committee was filed with the Legislature of the State of Illinois. The Legislature of this State has approved the findings of this committee and has directed the Attorney-General, the supreme law officer of the State, to prosecute vigorously a suit or suits against the Illinois Central to recover to the people the lake front property which the committee declared to be unlawfully held by the Illinois Central. An appropriation of twenty-five thousand dollars of public money was made by the Legislature of the State of Illinois and is now being

expended for the purpose of determining in the courts the title of the Illinois Central to the land, and its claim to riparian rights, between Fifty-first Street and the Chicago River.

At this point I desire to submit this question: Has any attorney acting for the City of Chicago examined the title of the Illinois Central to its present possessions and given an opinion to the city as to the title of the Illinois Central and its right to riparian rights? I cannot see any justification for ratifying the proposed contract without an examination of the title of the Illinois Central to the claims and properties it pretends in the contract to give as its part of the consideration in said contract. If a private client should call upon an attorney and suggest that he was about to part with a valuable consideration for another man's title to property, the lawyer would in every case insist upon an examination of the abstract to determine whether or not the person had any title to give. No man would buy a piece of property without a legal opinion based upon an examination of the abstract of title and I cannot see any reason why the City of Chicago should consent to and ratify a contract without first having had an opinion from its Law Department as to the title of the Illinois Central to the rights and property it promises to convey. Indeed, a lawyer might be subject to a suit for damages should he, in his private practice, advise his client to part with a valuable consideration for property were it found later that the title in the vendor was not good. I am frank to say that from the investigation I have made I am advised that no one representing the City of Chicago has ever made an examination of the abstracts to determine whether or not the Illinois Central has the title to the property between Fifty-first Street and Park Row. I take it that this matter is both pertinent and of paramount importance. At this time I am not attempting to say what the title is. My point is that the City of Chicago should know what it is before ratifying the proposed contract.

Ald. LONG: I would like to ask you to direct your argument especially to the claim of the Illinois Central to riparian rights. We do not care so much about the land, but tell us something about the riparian rights. That is the essential thing.

Mr. COMERFORD: If I may be permitted to occupy your attention a few moments longer I shall reach this department of the question.

Mr. LEE: I would like to put myself in a position where I may be able to know all the facts. I believe the courtesy of the committee should be extended to the gentleman addressing us.

Ald. LONG: My remarks were not intended to be discourteous. What I requested was that he address himself especially

to the question of riparian rights. That is the point we would like to hear discussed and the point we are most interested in.

Mr. COMERFORD: I expect to touch upon that.

Ald. LONG: I simply wish to add, in consequence of what Mr. Lee has said, that my remarks were not intended to be discourteous, but were designed to economize time. We are interested in Mr. Comerford's talk, but we would like to have him confine himself to the issues in this case.

Ald. HEY: I want to say this, that I also want to be placed in a position where, no matter what the matter may be, as long as it pertains to this contract or ordinance, this committee may be apprised of it, that this committee may be put in possession of all of the facts, no matter how remote they may be.

The CHAIRMAN: It is very important, in my opinion, to get the facts.

Mr. COMERFORD: I believe that the Law Department of the city will advise you that riparian rights are incident to a fee simple title in land, and that as a consequence it is impossible to discuss intelligently the question of riparian rights without discussing the question of the title to the land. If I am incorrect in this statement, I believe that your Corporation Counsel, Mr. Sexton, will cheerfully correct me. There are seven reclamation suits pending in the courts, and the taxpayers have been called upon to furnish money to prosecute these suits. These suits pending in our courts are purposed to divest the Illinois Central of its pretended title. The passage of this ordinance and the confirmation of the contract pending between the Illinois Central and the Park Board means the abandoning of these suits questioning the title of the Illinois Central, and an absolute confirmation of the Illinois Central's title to the lands, claims and rights in controversy. It means the abandoning of the law suits that the city has started in good faith—the law suits no doubt begun upon the advice of the city's good attorneys, the law suits in which the public money has been used in preparation and presentation in court.

Ald. LONG: The Illinois Central lands involve only one suit.

Mr. COMERFORD: I shall be glad to accept the correction.

Ald. LONG: The other six suits are not involved in this controversy; only the lands between Grant Park and Fifty-first Street.

Mr. COMERFORD: The reason I included all of the pending suits is that the land between Grant Park and Fifty-first Street is part of the land that is the subject matter of these suits and as a part of the land is within the findings of the Chipperfield Report. The statement I made is more comprehensive as to lake front land than the land that is the subject matter before this

committee, but the matter I am discussing does embrace everything that is covered in the proposed contract, and more.

May I invite the attention of this committee to another matter of public policy before taking up the question of riparian rights?

The South Park Board is a municipal corporation created by authority of the State of Illinois and given certain powers by the State of Illinois to act as its agent. An examination of one of the grants of power to the South Park Board by the legislature may cause even a conservative man to become suspicious. In fact, it is the Act under which the South Park Board is authorized to carry out the terms of the present contract.

I am reading from an Act of the Illinois General Assembly approved May 4, 1903, found in the volume known as South Park Commissioners Statutes and Special Ordinances, page 77:

"Section 3. QUESTION OF RIPARIAN RIGHTS. The riparian or other rights of the owners of land on the shores adjoining the waters or rivers in which it is proposed to construct any such extension or connection, the title of the owners, if any there be, of lands lying beneath such public waters or rivers, and the title of the owners of any lands penetrating into such public waters or of any land into, upon or over which it is proposed to construct such extension or connection or viaduct, bridge or tunnel, may be acquired by the said Board of Park Commissioners by a contract with, or deeds from, any such owner or owners, and such Park Commissioners shall have the power to pay for any such rights, lands or territory, thus acquired, out of its general revenue."

Turning to page 87 of the same volume you will find an interesting contrast.

Ald. LONG: What are you reading from?

Mr. COMERFORD: From an Act approved May 2, 1907, authorizing the Park Commissioners to acquire and improve submerged and shore lands for park purposes. I read that portion of the Act printed on page 88 of the South Park Commissioners Statutes and Special Ordinances:

"Said Park Commissioners and said riparian owners are hereby authorized to agree upon a boundary line dividing the submerged lands acquired or to be acquired by said Park Commissioners and the submerged lands to be taken, owned and used by said riparian owners in lieu of and as compensation for the release of said riparian rights to said Park Commissioners. In case any of such owners or persons interested are *non sui juris*, or in case any of such owners or persons interested are unknown, proceedings may be had to condemn their riparian rights and the lands owned by them or in which they may be interested, according to the provisions of an Act entitled 'An Act to provide for the exercise of the right of eminent domain,' and amendments thereto."

Analyzing these two sections, one conclusion is forced upon me and that is that this legislation was procured by the Illinois Central Railroad Company and that it was procured in the form here stated for a specific reason. Odd, is it not, that in the cases where the owners of rights, riparian or other rights, are

unknown or are *non sui juris*, the Legislature confers upon the Board of South Park Commissioners the right to go into court and by condemnation acquire such property or rights as may be needed for park purposes? This means an adjudication of the title to the riparian rights or rights of every kind, and a fixing by law of the value of the rights. Where the person is unknown and is *sui juris*, the park board has no right to go into a court and have an adjudication of the person's claims and the value of the same affixed, and has but one recourse, namely, to contract with the person. Who comes within this exception? The Illinois Central is known. It claims riparian rights and other property rights. It is *sui juris*. Therefore the Park Board under the statute has not the right to force it to show the grounds for its claims to property rights and riparian rights to secure an adjudication of its claims in a court. The Illinois Central is put in the position of arbitrarily forcing the South Park Board to cash its claims without a determination of the validity of those claims. Who will account and explain this joker? This bit of legislation is consistent with most of the legislation affecting the Illinois Central. It is in keeping with the law that was passed in '69 and vetoed by Governor Palmer, but passed over his veto, known as the "Lake Front Act"; the Act under which the Illinois Central attempted to claim the perpetual fee to land, the property of the State; an Act that was, as introduced, intended to convey land to the City of Chicago, and during its passage was amended by substituting the Illinois Central Railroad Company for the City of Chicago, and attempting to convey the land to the Illinois Central; an Act that the United States Supreme Court held to be beyond the power of the legislature and that was repealed in response to an indignant protest of an outraged people. Who is responsible for the failure of this act to give the South Park Board the right to proceed by condemnation and have adjudicated the Illinois Central's claims to property and riparian rights? Why was this joker included in the Act unless because the Illinois Central knew that its claims were not *bona fide* and that they were not passing the scrutiny of a condemnation proceeding?

Ald. LONG: Were you in the Legislature at the time that Act was passed?

Mr. COMERFORD: I was not.

Ald. LONG: I thought you might be able to enlighten us upon the subject.

Mr. COMERFORD: I do not think your observation is material to the issue before us.

Ald. LONG: I trust you will not put a wrong interpretation upon my remark. That was not intended.

Mr. COMERFORD: Another matter as a preface to my taking

up the main subject, namely, the contract may serve as indicating the public policy of the people of this State, as expressed by the Legislature, toward matters germane to the subject here.

I read from page 184 of the Session Laws of the Forty-seventh General Assembly:

"Section VII, of an Act approved June 10, 1911: If in the construction of any harbor, wharf, canal, dock, pier, slips, levee or other harbor facility or improvement mentioned in this Act, it becomes necessary to effect any of the rights of riparian owners along any public waters, or to take any property belonging thereto, such city shall have the right to acquire same by condemnation, but nothing in this Act shall give any such city the right to give compensation to any alleged riparian owner who is not in fact the owner of said land or who has unlawfully acquired title thereto by possession or by making or filling the same, and such city shall make a careful scrutiny of the title to each and every person so claiming compensation, to the end that no person shall receive compensation for lands or rights which already belong to the State of Illinois."

This is the message of the people through its General Assembly. The only voice by which the people can speak has spoken in the words above read. Are these words being heeded? Have we complied with the commands stated in Section VII? Will anyone deny that it is our duty to obey this good and wise public policy expressed in Section 7 of the Act?

But we must proceed to a consideration of the contract between the South Park Board and the Illinois Central, and in considering it I shall first address myself to the question: What does the Illinois Central propose to give to the people? This may be, and I believe it, an incorrect statement of the proposition. The question should be: What has the Illinois Central to give that it promises to give in the contract?

First, I ask what title or titles has the Illinois Central to the present land occupied by it? I have been unable to find any opinion of title furnished the public in connection with this entire matter. We know that the Chipperfield Report states that the Illinois Central is without any lawful title to the property it now occupies between Fifty-first Street and the river, except a few small parcels thereof. We know that the Legislature of the State has approved this finding. We have no right to presume that the Legislature is without the facts in making this decision. We know that the Legislature has directed the Attorney-General to institute proceedings on the theory that the Illinois Central is without title to its present right of way between Fifty-first Street and the river. We know that \$25,000 has been appropriated; that attorneys have been retained; that investigation has been made and that the matter is for determination in our courts. By the contract you are asked to ratify, the people will be forever in the future estopped from asserting their rightful claims against the Illinois Central. The wrong to the people will be without remedy. The Illinois Central will,

after the making of this contract, have an established title that cannot be questioned. The ratification of the contract means an abandoning of the finding of the Chipperfield Committee and the suit of the people directed by that committee. Therefore the first consideration passing to the Illinois Central is good title to its present holdings—a quit claim, so to speak, and all in view of the fact that we have no evidence that the Illinois Central's claims to title have any merit, while on the contrary we have the specific assurance of the Chipperfield Report that they are without any claim to title, unless it be that of unlawful possession of the property of the State.

Any land that the Illinois Central purchased the fee simple title to between Fifty-first Street and Grant Park, that is in actual contact with the waters of Lake Michigan, is the property of the Illinois Central, and incident to that ownership the Illinois Central possessed riparian rights. I am advised, and I will not assert that I may not be misinformed, that the Illinois Central owns only a very small part or parcel of the land between Grant Park and Fifty-first Street by purchase. This small portion of land to which the Illinois Central has a fee simple title, and as a consequence, riparian rights, I desire to speak of at this time. What is necessary to riparian rights and what do we mean by riparian rights? Two things are necessary, in the language of the Supreme Court of the United States, to riparian rights. First, an ownership to the fee of land; second, that the land must not only be contiguous but must be in actual contact with the waters.

What do we mean by riparian rights? The United States Supreme Court has said that riparian rights consist in the right to the natural accretions, and second, to the right to either build a wharf or pier to the point of navigation or to bring the point of navigation to the shore line by excavating and making a harbor. In other words, the claim of riparian rights is only in a person holding the fee simple title to property when that property is in contact with the water, and that the person owning riparian rights has the right to such land as may be added to his by natural accretion, and a right or easement to the point of navigation.

Of the other lands composing the present right of way of the Illinois Central to which it claims title other than by purchase, we must look in examining its claim to title, to the State grant. The Illinois Central sets up its claim to title under Section 3 of its charter. It may be well at this time to read the section.

“The said corporation shall have right of way upon and may appropriate to its sole use and control for the purposes contemplated herein, land not exceeding 200 feet in width through its entire length, may enter upon and

take possession of and use all and singular any lands, streams and materials of every kind for the location of depots and stopping stages, for the purpose of constructing bridges, dams, embankments, excavations, station grounds, spoil banks, turn-outs, engine houses, shops, and other buildings necessary for the construction, completing, altering, maintaining, preserving and complete operation of said road. All such lands, waters, materials and privileges belonging to the State are hereby granted to said corporation for said purposes, but when owned or belonging to any person, company or corporation and cannot be obtained by voluntary grant or release, the same may be taken and paid for if any damages are awarded in the manner provided in 'An Act to provide for a general system of railroad incorporation' approved November 5, 1849, and the final decision or award shall vest in the corporation hereby created all the rights, franchises, provided that nothing in this section contained shall be so construed as to authorize the said corporation to interrupt the navigation of said streams."

Under the grant I contend that the Illinois Central had the right to use for railroad purposes only a strip 200 feet in width of any land of the State of Illinois necessary to its right of way. In the constructing of the road I am advised that much of the right of way between Fifty-first Street and Grant Park was built in the waters of Lake Michigan. This land known as submerged land was the property of the State of Illinois. This has since been decided by the Supreme Court of both the United States and the State of Illinois, and I take it there is no difference of opinion on this point. The question then suggests itself: Did the Illinois Central take title to submerged land it used in the building of its right of way under the grant from the State? It is my opinion that it did not, that it does not now possess title to such land as, at the time of the construction of the road, was submerged land, and in support of my contention I point to the fact that the Supreme Court of the State of Illinois has held that Lake Michigan is not a stream within the meaning of the word as used in Section 3 of the grant. After discussing the matter at great length, the Illinois Supreme Court held "we are therefore of the opinion that the grant in Section 3, 'all such lands, waters, materials and privileges belonging to the State are hereby granted to said corporation for said purposes did not include lands covered by the waters of Lake Michigan.'" If this is true the Illinois Central in building on submerged lands built on lands never granted to the Illinois Central, and was and is a trespasser. The fact that the Illinois Central subsequently filled in these lands, I do not believe has conferred any title on the Illinois Central to the lands filled in. The land under water belongs to the State; being filled in by artificial means it would, when it became land above the water, be the land of the State. To such land—and I am advised a considerable part of the land between Fifty-first Street and Grand Park comes within the foregoing—the Illinois Central is without any title.

It remains then but to consider such land between Fifty-



first Street and Grant Park, to which the State had title, and which was not submerged land, and on which the Illinois Central built its right of way. The Supreme Court of the United States has held that the grant to the Illinois Central was not a grant of fee simple title, the court holding that the Illinois Central was but a licensee with the right to use the land within the limits of the grant, namely, for railroad purposes. It has been further held that the right of licensee does not carry with it riparian rights; that the riparian rights are incident to the ownership of the fee. It follows then that the only riparian rights the Illinois Central has is to the land between Fifty-first Street and Grant Park to which it has a fee simple title by purchase, or such riparian rights as it may have acquired by purchase. Let us know exactly what parcels of land come within this definition by an examination of the abstracts of title.

The submerged land upon which the Illinois Central built its road and claims title to under the grant from the State is, in my judgment, a claim that is not well founded, and until some final court has passed squarely upon this point, I believe it is the duty of this committee so to hold.

To such other parcels of land between Fifty-first Street and Grant Park as the Illinois Central may have built on under the grant of the State, that at the time was not submerged land, it is my opinion that the Illinois Central did not take title to the same in fee simple, but merely as a licensee, and, under the decision of the courts, to this land, and as the licensee, the Illinois Central would have no riparian rights.

Ald. LONG: Can I interrupt you?

Mr. COMERFORD: Yes, sir.

Ald. LONG: Assuming that what you say is correct so far as you go, how would you answer the claim of the Illinois Central to the riparian ownership of the land that it has acquired by purchase from Twelfth Street to Fifty-first Street?

Mr. COMERFORD: If you will make the statement as a fact that the Illinois Central owns the fee to the entire shore line, then I will say that it has riparian rights incident to that fee, but unless you have an abstract of title to show the people of Chicago, and have examined the same, you cannot make that statement. I am waiting to hear some one make the statement that the Illinois Central has the fee to the shore line, and then I will admit that the Illinois Central has riparian rights. So far as I can learn, the question you ask is predicated on a hypothesis that is not the fact in this case.

Mr. REDFIELD: Have you examined the abstracts of title?

Mr. COMERFORD: I have not.

Mr. REDFIELD: I have.

Mr. COMERFORD: I have not seen an opinion from any one

connected with the present matter giving the details of the title. I mean a legal opinion such as one would insist upon in a private transaction when purchasing property rights. One other proposition in this connection I think should be considered, and that refers back to the exercise of riparian rights to the small portions of land between Fifty-first Street and Grant Park that the Chipperfield Report states the fee is in the Illinois Central, and as a consequence, to which it has riparian rights. I make the point that if I own a piece of property in contact with the water of Lake Michigan I have riparian rights incident to my fee title to the land, but as I have stated before that right is merely a right to use the water front by the building of a wharf or pier or harbor that will bring me to the point of navigation. I would not have the right to build the pier ostensibly for this purpose and then build a flat building and a department store for my own profit. My use of the water front is limited, and on this point there is no room for dispute. If, as such an owner of a parcel of property, I should fill in submerged land of the lake, it is my opinion that submerged land being the property of the State would, upon becoming made land by artificial means, still be the property of the State, and that if by my own act I was responsible in my trespass on the State's land for cutting off my contact with the lake, I would have forfeited and abandoned my riparian rights, and the riparian rights would attach to the artificially made land that was in contact with the water front and was the property of the State. I base this opinion on what appears to be sound morals, and I believe the principle is a correct one.

Ald. LONG: I have never found a case like that.

Mr. COMERFORD: I shall be frank with you, Alderman. I do not know of any case making such a holding, but I believe that the proposition sounds in good morals and in good conscience. I want no better ground for a legal opinion than good morals and good conscience, and until I can find the decision of a final court holding directly to the contrary, I shall hold that this is a safe legal proposition. Even when courts have by reckless reasoning made findings of law contrary to good morals and good conscience, we find that such precedents do not long survive.

My proposition is that you are asked to ratify a contract,

First, without any legal opinion given to the people of the State of Illinois showing that the claims of the Illinois Central which are to be turned over as its consideration for the contract, are anything but mere claims without any foundation in law;

Second, that you are asked to violate the public policy of the State expressed in the Chipperfield Report;

Third, you are asked to consent that the Park Board, as the agent of the State, make a contract giving the title forever to the present holdings of the Illinois Central that are at present the subject of litigation and that have never been determined in a court.

You are asked to ratify a contract that gives to the Illinois Central not only what has been here above enumerated, but in addition thereto a strip of land 250 feet in width and about  $4\frac{1}{2}$  miles in length, embracing, as I am advised, approximately 150 acres of land with a value of approximately \$20,000,000.

The South Park Board, in addition to this, is to pay all the expense of providing a new location for the city's Thirty-ninth Street Pumping Station.

And even more, the South Park Board is to pay one-half of all adverse claims that may be purchased by the Illinois Central in making perfect its title. Even in this procedure, the Illinois Central first has the right to do the purchasing of adverse claims and to call upon the Park Board, after notice given to said Park Board of the agreed-upon price, to pay one-half of said adverse claims.

In consideration for this, the Illinois Central, so far as we know, at this time gives nothing but land in the vicinity of its depot site at Park Row with a value of less than \$4,000,000.

In the contract we find some suggestion of possible future electrification by the Illinois Central, but here again upon close examination we discover that no promise is made that the Illinois Central will ever electrify.

The advantages of a City Beautiful cannot be denied. The advantage of locating the Field Museum downtown and the carrying out of the lake boulevard plan will greatly benefit the City of Chicago, but the point I make is that we should not pay the Illinois Central for rights and claims that the Illinois Central does not possess.

I want to thank the gentlemen of the committee for the courtesy extended to me, and to apologize, although at this tardy moment, for my presentation of this matter in a more or less disconnected manner. My attention was not called to this matter until within the last forty-eight hours, and while I have tried to make some examination of the matters set forth above within that time, I am frank to state that I have not had the time that the subject requires and that the claiming of your attention warrants, but I think the surface findings in this matter indicate that the consent and ratification of the Common Council should not be given to this contract.

I am waiting to see some official representing the people make a statement of exactly what the people of Chicago and of the State of Illinois are receiving from the Illinois Central for the magnificent consideration the Illinois Central is receiving.

Let us have the facts. Let the taxpayer know what the phrase signifies: "Said company claims to own the greater part of the land and the riparian and other rights pertaining to such lands on the shores adjoining said public waters between the south line of Lake Park Place and Fifty-first Street." I thank you.

Ald. LONG: I think I express the sentiment of the committee when I say that we all feel very deeply indebted to Mr. Comerford for the excellent presentation he has made of this matter.

Mr. E. C. BUTLER: Mr. Chairman, for the interests that I represent I want to say—

The CHAIRMAN: The committee would like to know whom you represent.

Mr. BUTLER: I represent—I was invited here by the chairman today—I am the chairman of the Commercial Club Plan of Chicago. I want to say for the benefit of Mr. Comerford, and I want you to know, if you please—he has intimated at least that the Illinois Central was back of this deal, the deal of 1907 under which we are acting. It was very evident that he said the Illinois Central was back of it, because it looks that way. I want to say for the benefit of you gentlemen that that was a deal that was gotten through—gotten out by the Commercial Club committee on the Chicago Plan, and if there is anybody responsible for it, and if there is anything crooked in it, why I am to blame, because I was the fellow—the man who went to Springfield to secure this bill. It took a long time, but we got it. Now the Illinois Central had nothing to do with it. I am not going to take up your time, gentlemen, but I wanted to tell you that much before Mr. Comerford left.

Mr. VANVLISINGEN: Mr. Chairman, I am here by request of the Chicago Federation. Our federation has taken no part in the matter and I do not want to be understood as voicing its opinion. What I have to say I have embodied in a resolution which this committee can adopt or reject, as it sees fit. I think you will gather my meaning when I read the resolution.

Before I start I wish to say that Mr. Redfield assures us that the Illinois Central has a title.

Mr. REDFIELD: No. I said I had examined the abstract of title.

Mr. VANVLISINGEN: You have examined it. It is very important that we know what title they have.

"WHEREAS, the proposed ordinance relating to the contract between the South Park Commissioners and the Illinois Central Railroad Company, with respect to granting additional railroad right of way between Park Row and Fifty-first Street, an outer boulevard and other matters, are of great importance and concern to the City of Chicago, and the Committee on Harbors, Wharves and Bridges desires in its consideration of the subject all possible light thereon from the various executive heads of the city,

THEREFORE, RESOLVED, That the Corporation Counsel advise this com-

mittee whether, in his judgment, the proposed settlement is an advantageous one for the city. How far the Park Board may lawfully fill beyond the new proposed easterly railroad line? Would the land so filled by the Park Board be restricted to certain specified uses, and to which? Has the Park Board lawful authority to make said contract, and to do all the things contemplated by it? Is it better to approve the contract or to await the outcome of the pending State suit against the railway? Cannot the city force a better settlement by condemnation of all lake front riparian rights under the powers of the new Harbor Act? Cannot the city give the Park Board boulevard rights under the Harbor Act as effectually as the Board can give the city harbor rights under the powers of the Park Act?

Commissioner of Public Works is requested to make an approximate estimate of the reasonable cost of all the improvements referred to or contemplated in said ordinance or contract to be made by the Park Board."

Mr. Chairman, it avails us very little to get a contract which gives us permission to build an outer boulevard driveway, if we have not the funds to do it with, and we will not get it if we have not. One thing is certain, as soon as this contract becomes a legal document, the Illinois Central will advance to the farthest point east permissible, and as the years roll by we would still have no parkway out there, and what we have done is to give the Illinois Central an additional grant of land.

"Also, whether in his judgment, a settlement would facilitate or delay the electrification of the Illinois Central in Chicago."

One of the main arguments against electrification is that it is not practicable in connection with the railroad yards. The Illinois Central are given an additional strip of land of 200 to 250 feet wide by  $4\frac{1}{2}$  miles long. There is nothing—no restriction put in the contract by the Corporation Counsel—which will preclude the use of that land for railroad yards. We may look forward to extensive railroad yards being built along our lake front from Twelfth Street down to Fifty-first. If that yard is built there, it will be an impediment to electrification.

Ald. LONG: Why?

Mr. VANVLISINGEN: For the reason that the more property—the more trackway, the Illinois Central has to electrify in the City of Chicago, the more it will cost, and the slower they will be doing it.

"The City Comptroller is requested to estimate and forecast the financial resources of the South Park Board available during the next ten years for making said improvements; the value of the land and rights going to the railroad and the South Park Board respectively, under said contract"—

Gentlemen, you have a real estate expert, let him place a valuation upon this land that goes to the Illinois Central. Gentlemen, you see what he thinks it is worth.

—"the probable effect of land values by making said railroad and said parkway extensions, and whether the city receives any revenue from the Illinois Central for police, fire or other protection to its property, and is responsible for losses sustained through riots."

Gentlemen, the City of Chicago gets not one penny from the Illinois Central Railroad for fire and police protection. Under the law under which the Illinois Central was chartered, the State gets seven per cent. revenue from the Illinois Central, and Chicago gets nothing. In taking it upon themselves to give the Illinois Central 145 acres of land with the privilege of erecting yards thereon, and placing freight cars thereon, the responsibility rests upon the City of Chicago to give it police and fire protection, and in case of riots, under a decision of the United States Supreme Court, the City of Chicago can foot the bill. Now, gentlemen, it seems to me it would be better to have such railroad yards located somewhere else.

"The Small Park Commission is requested to express its opinion on the probability of plantation growth in, and the utility and desirability of the proposed parkway along the railroad right of way as widened, and the advisability of spending money in building an outer parkway as compared with more parks in the residential districts."

It was not very many years ago—about fourteen or fifteen—when we had pictured to us a beautiful grove in Grant Park—what it was going to be. You can see what it is if you read the report of the South Park Commissioners. You will find it is stated that they cannot make the trees and flowers grow because of the smoke. Now you are proposing to locate a boulevard adjacent to a yard 400 feet wide and expect flowers and trees and shrubs to grow.

Ald. LONG: It will be 660 feet wide at the widest part.

Mr. VANVLISINGEN: Another point, suppose this parkway is put along the lake shore. It could only be reached by viaducts with spans 450 to 650 feet in width. There will have to be an approach to the driveway. It will not only be a question of 450 feet of span, you will have to have your approaches to it. You will have to drive a quarter of a mile on your approaches.

"The Health Department is requested to determine whether the ordinance and contract adequately protect the public health and the drinking water against injurious effects through the filling and lake dredging."

There is not a line in this ordinance that gives the Health Department power or makes any restriction at all as to what they may fill with or how they shall fill, whether they shall leave stagnant pools there. There is no control by the city at all.

"The Fire Marshal is requested to outline the increase in fire hazard, if any, which may be occasioned to the city by the railroad's use of the additional land as a freight yard, and what provision should be incorporated in said ordinance for the protection of the city against such additional hazard."

I am not a fire expert. I think the committee should be advised on this subject by the fire department.

"The Chief of Police is requested to estimate the effect of such a yard on local police conditions in the adjoining residence districts.

The Harbor and Subway Commission is requested to give its opinion whether the future outer harbor necessities of Chicago are amply provided for.

And all the executive and departmental offices of the city are hereby requested to give such further information, suggestions and recommendations on all angles and phases of this matter, as to each may seem helpful to this committee in arriving at a conclusion in the interests of the health, property and prosperity of the citizens of Chicago."

Gentlemen, you have appointed a staff of experts who can advise you on points that I have referred to better than an outside citizen can. All that this resolution does is to ask you as a committee to refer to the department best qualified to pass upon the subject, whether this improvement is harmful or dangerous or beneficial.

Mr. THOMAS M. SULLIVAN (member of the Board of Trustees of the Sanitary District): Mr. Chairman, I represent the Sanitary District, and our attorney is here and he wishes to speak to you on the matter of the Thirty-ninth Street Pumping Station.

Mr. JOHN C. WILLIAMS: Mr. Chairman, I am not going to take but a moment of your time. I am not going to discuss the general policy of the ordinance. I am not familiar enough with its terms. I know that the committee is more capable than myself to do so, even if I had given a great deal of consideration to it. Only a short time ago my attention was called to the ordinance. I have only one point that I wish to call to the attention of the committee. It is in connection with a possible sewer. I would like to have the chief engineer of the district speak to the committee about a plan he has in mind that should be preserved and conserved by a provision in the ordinance. The point that I wish to call to the attention of the committee is found on page 20 of the short pamphlet, in Section 9, beginning at the bottom of page 19.\*

"The City of Chicago agrees that whenever the South Park Commissioners shall, without any expense to said city, provide for said city a pumping station and site therefor in lieu of the present Thirty-ninth Street Pumping Station, acceptable to the City of Chicago and the Sanitary District of Chicago, then the said City of Chicago shall transfer and convey to the South Park Commissioners the tract of land known as the Thirty-ninth Street Pumping Station, including the improvements thereof, as specifically described in Section 2 of this ordinance."

The only proposition I wish to bring to the attention of the committee is this: the Thirty-ninth Street Pumping Station is now operated by the Sanitary District of Chicago at its own expense. It became available by reason of the Thirty-ninth Street conduit which has been built from the south branch of

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\*See Appendix.

the Chicago River to the Thirty-ninth Street Pumping Station at its present location. The City of Chicago paid a large percentage of the cost of the Thirty-ninth Street Pumping Station, and the Sanitary District paid a certain portion, 40 per cent., I think. It is operated now at the expense of the Sanitary District. Both the City and the Sanitary District are interested in the pumping station. Now it appealed to us as being a fair proposition that if this pumping station should be moved out into the lake 300 feet or 600 feet or half a mile or whatever distance, then the title to the present site of the Thirty-ninth Street Station should be conveyed by the city to the South Park Commissioners with the understanding that the South Park Commissioners should extend the present Thirty-ninth Street Station before that transfer is made. In other words, before the Sanitary District took possession of a new site, that it should be put in the same position it is at the present time. I merely submit that for the consideration of the committee. If the South Park Commissioners desire to move the pumping station to another site, they should rebuild or build such additional part of the Thirty-ninth Street Pumping Station as is necessary to connect it with the new pumping station wherever it may be located.

Ald. LONG: Don't you think that would necessarily follow from the phraseology of the ordinance?

Mr. WILLIAMS: It was very doubtful to me when I read it. It would be easy to say so now. It might be difficult to consider it afterwards. If it went in now, there could be no controversy about it.

Ald. LONG: It was the object of the framers of this ordinance to cover that specific point.

Mr. WILLIAMS: It may be covered now, but it seemed to be ambiguous, and I thought now was the time to correct it rather than hereafter.

Ald. LONG: Will you prepare an amendment covering your point?

Mr. WILLIAMS: I will be glad to prepare an amendment to this section.

Ald. LONG: Will that be satisfactory, Mr. Chairman?

The CHAIRMAN: Yes, sir.

Mr. GEORGE M. WISNER (Chief Engineer of the Sanitary District): Mr. Chairman, I do not think there will be any trouble on this point, although there is nothing put in the ordinance to cover this. Possibly it would be safer to have it done. You know the government officials are attempting to cut down the use of water by the Sanitary District, and we are preparing to take care of the sewage in some other way. It is also shown that there are too many solids going into the canal and we have prepared a report—a tentative plan—by which it was intended to



put in settling basins in connection with an intercepting sewer that comes from the south. I do not want to get the committee scared about our sewer treatment plant because it can be entirely covered and can work in with the parkway scheme.

Ald. LONG: Mr. Wisner, have you your plans with you?

Mr. WISNER: Yes, sir. I will leave them with the committee. In order properly to take care of this, there should be a reservation made outside of the Illinois Central right of way by which 2,600 feet along the lake shore and about 1,000 feet out into the lake are reserved for this future development. I have a sketch here which shows what we need roughly; and in connection with the Thirty-ninth Street Pumping Station the Sanitary District owns the width of the pumping station and the submerged rights for 1,000 feet into the lake. If the pumping station is pushed out into the lake we want our property rights extended.

After consulting the various experts of New York City and people who have made a study of water purification, they universally agree that every large city on the Great Lakes will want all of its water filtered. I think personally it will come to pass.

The same kind of reservation should be made in the vicinity of Fourteenth Street, so that the city can, if it desires, put in a filtration plant there. These can be made beautiful. It will not interfere with the plans of the South Park Board for a street, and it seems only wise at this point to make reservation—to make that reservation, that it can be used in connection with public works.

Ald. LONG: I would suggest that Mr. Williams be requested to favor this committee with an amendment to this ordinance embodying the suggestions of Mr. Wisner as well as his own.

Mr. WILLIAMS: Yes, Alderman.

Ald. LONG: I take it there is no objection on the part of any one to these amendments being made?

Mr. WISNER: Would you like anything about Fourteenth Street?

Ald. LONG: Yes, I would suggest that Mr. Williams include in his amendment a provision for Mr. Wisner's proposed improvement at Fourteenth Street.

Mr. WILLIAMS: Will it be satisfactory for me to submit the amendments to the Corporation Counsel?

The CHAIRMAN: Yes, sir, that is very nice.

Mr. JOEL W. STEVENS: Mr. Chairman, I represent the original owners of Lake Michigan and everything lying east of the meander line of the Survey of 1821—the Pottawatomee and the Chippewa Indians. I will talk fast. My brother Comerford is right in some respects. To some of his remarks I take exception. He says that it has been held that the State of Illinois owns the title to the lands east of the meander line subject to

the use of the waters of Lake Michigan. I take exception to that. In the first place, in the contract of 1795 the Indians made a contract with Uncle Sam—I will call it Uncle Sam because that is shorter than the United States; in 1821 under this proposition the United States Government sent surveyors here to survey the part of the northwestern territory which in this part is called the State of Illinois. They came here. They started and surveyed this land from the Mississippi River. They went to the center of the Mississippi River, and the difference between the Mississippi boundary and the Lake Michigan boundary is that there are riparian rights on the Mississippi River, but none on Lake Michigan, because that was a fixed boundary. A man who owns land on the Mississippi River has a right to build wharves or anything else in the Mississippi River as long as he does not interfere with commerce upon that river. On Lake Michigan the meander line strikes Michigan avenue at the intersection of Madison street and then it runs south to the Twelfth Street Station of the Illinois Central; fifty feet east of the west wall of the Twelfth Street Station is where the meander line strikes that depot, according to the Chipperfield Report, a large one, about three volumes. I have read law from all over the United States. I have read English law and I have read law every place that I could find it and am still reading it. You will remember hearing that a long time ago there was a grant entered or given by the Legislature of the State of Illinois to the Illinois Central Railroad—to fill in one mile from the shore line. What happened in that case? There was an injunction prayed in the courts of Cook County, and Judge Freeman, who is now sitting on the Appellate bench, denied the injunction to stop the City of Chicago from interfering with the police power when they were filling in the lake from east of their shops out there. That case went to the Supreme Court of the State of Illinois and Judge Freeman was sustained.

Now when Uncle Sam bought this part of the land from the Indians there was a fixed boundary line there. The only agreement that the United States had with the Indians in the proposition or anything else that you can find anywhere, either in Washington or Springfield, is that Uncle Sam has the right of commerce and navigation over the waters of Lake Michigan. I will challenge any one here, whether he is a lawyer or a layman, to find anything different from what I say. If he does I will apologize to this committee any time and any place. I have been over it very carefully. Here is the policy of it—the Supreme Court says that the State of Illinois holds it in trust. For what? The State of Illinois has no right, title or interest, and cannot convey any right or legal title to any lands that were not granted to them by a sovereign power, and that was the United States at that time. That is a rule that has held and is

still being held—that a grantor cannot convey anything that he does not own. I wanted to bring this to you, gentlemen—to your attention, for this reason: I have recently gotten into this case in what I would call black and white, under a contract to represent those Indians. Those are Indian tribes still in existence. They have always been in existence and I am representing them now, with other gentlemen, and within the near future we expect to start a suit in this vicinity.

Now what is going to happen? We have no controversy with the South Park Board or the Illinois Central people at all, or the people of Chicago, but I just thought it was my duty to tell you gentlemen this, so that you would know about these suits that will be started. I am not a boy any more. I am not a man who goes off half cocked. I want to get it right. When I get my data all together and get things sifted down right we will start those suits. Here is the proposition in a nut shell: If the State of Illinois did not acquire the title to that land east of the meander line—the lake shore, they have no right to it, if the United States did not get it. They bought the best land from the Indians out here at so much an acre. They had it surveyed. They had a meeting between the Indians—between the Indian Chief and the white people. It is all a matter of history, but it is a long time and we have gone back some time, but I can produce people in the City of Chicago that hunted and fished over there at the time that meander line was drawn in 1821.

Here is another thing I want to say to you, gentlemen: One of these cases between the city, I think, and the Illinois Central was in the Circuit Court of Cook County, and this was when the Honorable Judge Tuley was sitting in the courthouse here and the judge said: “Gentlemen, if you will allow me to make a suggestion——” I said—I asked him what it was. He says: “If you will take my advice, you gentlemen will build a stone wall between you and stop fighting.” He says: “It is my opinion that some day people will be produced here that will claim and prove a legal title to that land east of the meander line and they will oust both of you.”

The CHAIRMAN: Then, Mr. Stevens, the South Park Board ought to have entered into a contract with the Indians to get title, in order to consummate this whole deal.

Mr. STEVENS: I think that is about right.

Mr. REDFIELD: You dig up the Indians and we will do business.

Mr. STEVENS: I have tried to be brief about this. Now there is all kinds of law on these riparian rights. There are no riparian rights on the lake front for this reason: As Mr. Comerford said the riparian rights mean natural accretion. The courts have held time and again in this country and foreign coun-

tries that accretions must come natural; they cannot be made by a dock; they cannot be made by a wharf; they cannot be made by something outside of the shore line, and that Chipperfield Report says that with the exception of about four or five pieces of land from Twelfth Street to Fifty-first Street, the Illinois Central never had title to but a small parcel of land. Now if that was not true, do you think the Supreme Court of Illinois would have sustained Judge Freeman in that injunction suit when the City of Chicago went in there? The City of Chicago sent its police officers over there and stopped them from filling in the lake front. They were working night and day. They had electric light and they were bringing in trainloads and dumping it along there. They went in and asked Freeman for an injunction and Freeman denied it. They went to the Supreme Court. I want to ask you something—if the Illinois Central grant from the Legislature of the State of Illinois would not hold, do you think any ordinance put up by the City of Chicago would stand in this matter? I cannot see it.

Ald. LONG: It would not affect your clients one way or the other.

Mr. STEVENS: It may never affect my clients.

Ald. LONG: If it would not stand, you would be all the better off.

Mr. STEVENS: I am putting this up to clear the situation. If that grant from the State of Illinois would not stand, how can this ordinance stand? This body is not a greater body than the Legislature. The Act under which you gentlemen are acting is created by a sovereign body. It is the Legislature of the State of Illinois under the Village and City Act. Now that grant from the State of Illinois to the Illinois Central reads like this: "On or near the shore line." When they got a grant from the State of Illinois to put piling on that right of way from Twelfth Street to Randolph Street, the water varied from 5 to 9½ feet. You can see what they have been doing down there. Some of you gentlemen will probably remember the old Exposition building that used to stand on the lake front. I was in that building for two years—a part of two years. I was the engineer of that building for two years. We had a well sunk in the building and we had a small tunnel back out to the lake, just the other side of the tracks, which was a switch yard at that time, but just on the outside of the tracks every once in a while we had to put a stone pile in front to keep out sticks. I used to go down there to help them clear that away. The water would run into that Exposition building.

Another thing I want to call your attention to: two years ago the twentieth day of this month, the Corporation Counsel's office—this is shown by the Chipperfield Report—was asked to

give an immediate opinion. There was an opinion asked of the Corporation Counsel's office.

The CHAIRMAN: I was going to say there was a communication received by the City Council—it was not signed by you—and that communication was sent to this committee and sent by this committee to the Corporation Counsel for an opinion as to the title there—from the Indians.

Mr. STEVENS: I want to say right now that I know nothing about that.

The CHAIRMAN: It was sent to the Corporation Counsel. I wanted to advise you of that.

Mr. STEVENS: That is another question then.

The CHAIRMAN: I did not want to be discourteous at all, but the matter of the Indians' claim to title there was sent to the Council, and from this committee was sent to the Corporation Counsel's office. We will know what to do, perhaps.

Mr. GEORGE A. HYERS: Mr. Chairman and gentlemen: I want to say to this committee that the proposition that is submitted to us here affects the property owners of the South Side, and I am one of the property owners. I was one of the Smoke Commission, to try to do away with the smoke of the Illinois Central.

We do not look with favor on the proposition to give the Illinois Central 200 or 250 feet more right of way on the surface. I talked with Mr. Donnersberger, one of the commissioners, about what the commission did with the Illinois Central, and I do not believe that they tried to do anything. They said that they stood like two dogs watching a bone; one was afraid to move for fear the other got the bone.

Now, my proposition is, to submit this ordinance back to the South Park Commissioners, and let them try again, because if they built us a boulevard on the South Side and put the Illinois Central in a subway, connecting up the parks and the streets between them, and not have a lot of viaducts across to the lake, then we would have a boulevard which would be a credit to the people of Chicago. But, with 400 feet, or 450 feet, of smoky tracks between the people and the lake—or perhaps 650 feet, as you are talking of now, why we would be that much further away from the lake, and we would have double the smoke nuisance that we are enduring now on the South Side.

I am one of the South Side property owners who has been paying 25 per cent. of my taxes for the last two years, 25 or 30 per cent of the gross receipts of my real estate for taxes. At the same time, I believe the best thing to do is to put the Illinois Central in the subway, and give us a boulevard right over the right of way, connecting the streets and parks along the South Side, and the place opened up to the lake. Then we would have a "City Beautiful" on the South Side. Because 400

or 600 feet between the shore line and the park line—to leave 400 to 600 feet between the shore line and the park line, would be putting us farther from the lake, and you are depreciating the value of South Side property. There is no question about that.

We are the property owners on the South Side, and we want to do away with the smoke. The Pennsylvania Railroad carries its trains from Jersey City to New York with electric engines. I have here in my pocket now an article that I cut out of the paper the other day, where the United States Government is making a contract for forty engines to carry boats through the Panama Canal locks, costing about \$500,000. The Illinois Central could use electric engines just as well as they can, and the Illinois Central could use electric engines just as well as they do in that subway in Baltimore where they carry the cars in a tunnel from Baltimore to Washington. They have been doing that for twenty years.

I believe the thing to do is to re-commit this ordinance, and send it back to the Illinois Central and to the South Park Commissioners, and let them give us a boulevard which is really a boulevard. Let us have a boulevard, and we can have it by putting the Illinois Central in the subway, and the material you take out by putting them down in the subway, you could use to cover the approaches, the concrete approaches, which would last forever. Then we would have a boulevard which connects on a straight line to the lake, and everybody would have access to it.

That is all I have to say. I represent the Woman's Club. I thank you.

The CHAIRMAN: We will now hear from Mr. Allen B. Pond.

Mr. POND: Mr. Chairman, I desire to present a petition from certain citizens whose names I will read. I will read it.

The CHAIRMAN: We will be glad to listen to it.

Mr. Pond read the following:

CHICAGO, January 23, 1912.

*To the Mayor and Aldermen of the City of Chicago:*

The undersigned citizens protest against the approval by the City Council of the agreement between the Illinois Central Railroad and the South Park Commissioners, dealing with the lake front.

The signers of this statement believe in lake front park development. They fully concede the public spirit and good motives of the citizens and park officials who urge the ratification of the agreement. In formulating the plans for lake front improvement these men have rendered a great service to the community. They have labored earnestly to make the best bargain they could, but they have labored under a disability. That this disability can be removed and that the public can then obtain the substantial advantages of the present plan without its obvious disadvantages is the belief of the undersigned.

By the terms of this agreement, the purpose of which, from the public point of view, is the creation of a lake front park and the securing of a central site for the Field Columbian Museum, the Illinois Central Railroad Company is given perpetual title and ownership to 162 acres of land on the lake front, east of its present right of way. Of this, 120 acres are sub-

merged lands which must be filled in, and 42 acres are made lands, which the state asserts, in a pending suit, have been wrongfully filled in and occupied by the company. In addition, the city will vacate, for depot purposes, Indiana Avenue between Twelfth and Thirteenth Streets and part of an alley in the same block, a total of 20,000 square feet. For a distance of about two miles the enlarged right of way will be 660 feet wide, accommodating forty-five to fifty tracks. The company can build structures of any kind on the land acquired here. The balance of the way to Fifty-first Street, the width will run from 400 to 450 feet. This unsightly freight yard, with its smoke, noise and dirt, will border the proposed park throughout its length, and will be a barrier to the park which can be crossed only by long and costly viaducts.

In return for grants by the people the Illinois Central gives to the public the following lands: Land fronting 55 feet on Park Row and 155 feet on Twelfth Street, now occupied by depot and office building, and a strip 85 feet wide on the south side of Twelfth Street from Michigan Avenue to Indiana Avenue, aggregating 39,000 square feet; the pier at Thirteenth Street, containing  $7\frac{1}{2}$  acres, and 3 acres east of the proposed right of way between Thirty-seventh and Thirty-ninth Streets, which is part of the lands covered by the suit of the State. The company also gives up its riparian rights, which are stated to cover nine-tenths of the distance from Twelfth Street to Fifty-first Street. The cost of acquiring the remaining one-tenth is to be divided between the Park Board and the railroad company.

The value of lands which the company gives up are estimated by Mr. Donnersberger of the South Park Board as follows: Thirteenth Street pier, \$1,500,000; depot site and 85-foot strip (39,000 sq. ft.), \$2,000,000.

The riparian frontage of the Illinois Central, assuming that it has riparian rights on all the lands involved in the suit with the State, and making no deductions for street ends which extend to the lake, is about 21,500 feet. Some 2,200 feet of riparian frontage near Twenty-fifth Street, belonging to private owners, was valued not long since by Mr. Donnersberger, for inheritance tax purposes, at \$20.00 per foot, and the owners objected to this as too high. It might be even less in a condemnation proceeding. As to this, expert advice should be secured. But figured at \$20.00 per foot the riparian rights of the Illinois Central would be worth \$430,000. This gives a grand total of \$3,930,000 as the value of the property given to the public.

As far as we can learn, no official estimate has ever been made of the value of the lands which the public gives to the company. That the Council should have full information as to the value of these lands for railroad and other purposes would seem to admit of no argument. We are able to arrive at the value of the land which the railroad gets only by comparing it with the value fixed for the land which it gives up. Mr. Donnersberger values the  $7\frac{1}{2}$  acres in the Thirteenth Street pier at \$1,500,000 or \$200,000 per acre, or about \$4.50 per square foot. If there be deducted from the total value the cost of building and filling the pier, there is left \$1,300,000 as the value of the submerged land, or \$3.98 per square foot. Figured at \$3.00, 162 acres, containing something over 7,000,000 square feet, would be worth \$21,000,000. When we consider the central location of the terminal, its convenient arrangement and connections, and its freedom from grade crossings throughout its entire length, there can be no doubt of its very great money value. In addition, the company is given 20,000 square feet of streets and alleys for depot purposes. At the low value of \$10.00 per square foot, this would amount to \$200,000, giving a grand total of \$21,200,000.

To sum up, the Illinois Central gets:

162 acres .....	\$21,000,000	
20,000 square feet street and alley vacated.....	200,000	
<b>Total .....</b>		<b>\$21,200,000</b>

The public gets:

Thirteenth Street pier.....	\$ 1,500,000	
Depot site and 85-foot strip, aggregating 39,000 square feet .....	2,000,000	
Nine-tenths riparian rights.....	430,000	
<b>Total .....</b>		<b>\$ 3,930,000</b>
<b>Balance in favor Illinois Central.....</b>		<b>\$17,270,000</b>

This balance is a bonus over and above the values of the property surrendered, which the Illinois Central forces the South Park Commissioners to concede as the price of being allowed to proceed promptly with these great public improvements.

The ordinance pending in the Council gives the consent of the city to the perpetual use for railway purposes, of the lands granted, and also gives rights of connection and rearrangement of tracks to the St. Charles Air Line at Sixteenth Street.

In other words, this ordinance gives to the Illinois Central Company the right to create and control great trackage yards on the lake front, far in excess of its own needs, immediate or prospective, for railroad purpose. If it be the idea to lease portions of this trackage to other railroads, it will be seen that the railroad nuisance on the lake front will be greatly magnified. Moreover, the Illinois Central will be able to dictate the terms on which other railroads may enter the city by this approach. The ordinance does not obligate the company to electrify its terminals, either in the near or remote future, and a great freight yard at this point would add enormous difficulties to the problem of electrification. It is unlikely that vegetation can be made to grow successfully in the park if the smoke nuisance is unchecked, especially if the number of smoke-using locomotives be increased.

There are many objections to the pending ordinance. The two main ones are as follows:

1. The bargain embodied in the ordinance is very one-sided.
2. Lake front park development and the beautification will be interfered with by the continuance of the smoke nuisance and the creation of more trackage area to be crossed to reach the park and the facilities located thereon.

No official estimates have been made of the value of the land turned over to the Illinois Central, but obviously it exceeds by millions of dollars the value of the land and the riparian rights which the company turns over to the city. Those favoring the agreement defend it on the ground that the Illinois Central controls riparian rights which the Park Board must acquire before it can proceed. These rights the Park Board cannot condemn, but can acquire only by agreement. If the Park Board had the power to condemn these riparian rights, it could do much better than enter into this bargain.

And why has not the South Park Board, to which the Legislature in 1907 granted title to the submerged lands, this power of condemnation which was granted to the Lincoln Park Board many years ago? Solely because the Illinois Central Railroad had more influence with the Legislature than the citizens of Chicago.

The riparian rights of the company were purchased by it from property owners, presumably at small cost. Under condemnation proceedings these riparian rights would have little value, either in law or in equity. According to the decisions of our Supreme Court the rights of a riparian owner



are merely the right to such natural accretions or additional land as the waters may add to his shore, and the right of access to the waters of the lake. On the shore in question there is no accretion; on the contrary, there is constant erosion necessitating the maintenance of protecting breakwaters. The damage which the railroad could show in a condemnation suit to deprive it of this right would be extremely small.

The signers of this statement hold that it is immoral and greatly subversive of public rights to permit the Illinois Central Railroad Company to capitalize, for its own enormous enrichment, its control of the legislatures of this State. Once before, this corporation sought, through its control of the notorious Legislature of 1869, to increase its holdings on the lake front. It succeeded in part, but popular indignation forced the repeal of this legislation in 1873.

We believe that those who negotiated this agreement with the Illinois Central Railroad Company have been unduly timid and lacking in confidence in the power of aroused public sentiment. They do not realize the temper of the people of this great democratic community, who, when occasion arose, forced from unwilling legislatures the grant of power to deal with street railway, gas and other public service questions, in the manner that seemed to them right. The Illinois Central Railroad is not nearly so well entrenched today as Yerkes appeared to be when he was using the Illinois Legislature for his purposes, to the injury of the people of Chicago. We believe that if the issue is presented clearly to the people, so that they understand the full significance of what is involved, the next Legislature will give to the city or the South Park Commissioners the powers of condemnation that are needed.

We do not believe the people want to pay tribute to corporation control of the Legislature as the price of the beautification of their own property. The Illinois Central Railroad has had a lobby at Springfield to prevent legislation looking to railroad terminal electrification. Must the community, before it can have the electrification that is necessary to the beautification and pleasurable use of the lake front park, hereafter grant the Illinois Central another large slice of the lake front?

The undersigned are of the opinion that the present 200 foot right of way of the Illinois Central should not be widened. Such small tracts of land and riparian rights owned by the Illinois Central, as are needed for park development, should be taken and paid for in money at their fair value. If the Illinois Central will not negotiate on these terms, the next move should be to inaugurate a campaign to secure from the Legislature, to be chosen this fall, such powers of condemnation as are needed.

It is true that if the public is forced to this course it will mean some delay in carrying out the proposed plans, and may make it impossible to secure the Field Museum for the lake front; but the museum will not be lost to the city by locating it at Jackson Park, as originally intended; and, on the other hand, the city will get what it wants at a fair price, and will keep the lake front free from the disfigurement and intolerable nuisance of a great freight yard—a real harrier to the people's full enjoyment of the new parkway and the lake.

Respectfully submitted,

ALLEN B. POND,  
MORTON D. HULL,  
LESSING ROSENTHAL,  
JOSEPH CUMMINS,  
ROBERT CATHERWOOD,  
CHARLES E. MERRIAM,  
SAMUEL DAUCHY,  
GEORGE C. SIKES,  
THOMAS W. SWAN,  
JENS JENSEN,  
F. B. JOHNSTONE

The CHAIRMAN: Is there any one else to be heard?

Ald. GEIGER: Mr. Chairman, I expect, inasmuch as we have started out to hear from those who are opposed to this ordinance, that we should continue to hear from those who are opposed to it until they have finished.

The CHAIRMAN: We will hear from everybody.

Mr. LESSING ROSENTHAL: Mr. Chairman, at first I did not want to come here. I thought it would be just as well not to say anything at this time, but I am afraid unless those of us who are opposed to this plan speak now it may be too late to speak hereafter.

Of course I am in full accord with the petition just presented by Mr. Pond. I think it voices to the fullest extent, at least to a very great extent, the sentiment of a great many people in this community. I think if the people understood this problem as many of us do who have looked into it—at any rate, as I understand it—that the view would all be one way.

I know that Mr. Butler was in almost constant attendance on the Legislature in 1907, and in fact he was there so much and so often that some of us did not even know why he was there.

In constant association with some of the gentlemen whom one has to associate with in the Illinois Legislature, I realized that Mr. Butler strove for the interests of the city.

But after all, I want to say this, that I believe that they were to a large extent at the mercy of the Illinois Central Railroad. I think in the construction that has been placed on the Act of 1907 they were to a large extent at the mercy of the Illinois Central Railroad, but does it mean, gentlemen, that because by that particular act we have been placed at the mercy of a railroad company and were compelled as a result of that to make an unfair trade—that that sort of thing has to continue?

Now I am in favor of the beautification of the city. I am in favor of an outer boulevard. I think every one that has signed this particular petition is in favor of the same thing, but the fact is we are working at cross purposes, that one effort counteracts the other. When we strive to create on the one hand a beautiful outer boulevard, on the other hand we create a larger nuisance—a greater nuisance immediately adjacent to this boulevard.

I want to refer to a few things that I have jotted down while sitting here—a few of the points that occurred to me, and I want to refer to them briefly.

Aside from the question of the value of the grant to the Illinois Central Railroad Company and the effect of a large railroad, freight or switching yard along the lake front, there are other serious questions. There is the question of smoke and noise. Of course the noise will not only be doubled, but will be tripled with this increase of right of way.

There is the question of electrification which, it seems to me, must be considered by this committee and must be considered by the city in anything that it does. We are striving to have all of the roads electrified. On the other hand we are now proposing to grant to the Illinois Central Railroad additional right of way which will give them room for probably thirty tracks. We are allowing this to be done and we are allowing these freight trains to be operated by steam, and so postponing the thing, it seems to me all of us want—the electrification of the terminals of the railroads. We are hearing arguments constantly advanced against electrification—that it is impossible to operate a switch yard or freight yard or to pull freight trains out of town by electricity. Now we are multiplying this evil. We are, in other words, postponing the day.

Another thing that seems to us has to be taken into consideration is the question of the depression of the Illinois Central tracks. I am heartily in sympathy with the gentleman who addressed you—Mr. Hyers—who spoke and said that ultimately the Illinois Central will have to come into the city—at any rate if you want to have a beautiful lake front—it will have to come in underground. At any rate its tracks will have to be sufficiently depressed so there will be an open tunnel through which it can enter the city.

Now any ordinance that is adopted ought to work to that particular end.

Then, of course, nothing is said in this ordinance—even if we do not believe in a tunnel and do not believe in the depression of the tracks—about the question of the elevation of the tracks. In other words, the city is compelled either to tunnel under the tracks or to build a viaduct over the tracks, but at the same time it is made optional not with the South Park Commissioners, not with the City of Chicago, whether they shall tunnel down under the track or build a viaduct, but that option is left under the terms of this ordinance or contract entirely with the Illinois Central Railroad Company. Now that in itself is a wholly unfair proposition.

Now I want to allude to the question of policy—of increasing the number of railroad tracks that are run along the surface within the limits of the City of Chicago.

Another thing that ought to be considered in connection with this ordinance is the question of a boulevard connecting with the North Side and crossing the Illinois Central Railroad tracks at Randolph Street. That, I think, is not reserved. Nothing is said about it, and we will have to make a new deal with the Illinois Central Railroad after we have completed this outer boulevard, and want to run over to the North Side and extend it across to the North Side.

Another matter is that no provision is made for the construction of approaches. Those of you who have read the ordinance will bear in mind that it provides that a viaduct shall have at least a clearance of eighteen or nineteen feet. Of course you cannot have a clearance of eighteen or nineteen feet above the railroad track without having a viaduct that is higher still, and you cannot have a viaduct that is higher still without having approaches to viaducts. You will have to build your approaches along Forty-second, Forty-third or Forty-seventh Street and other streets. That means the elevation of those streets. That means great damage to adjacent property owners. That means probably elevation of other streets, and by getting something that is slightly immediately adjacent to the lake shore, you are going to get all along the lake shore something extremely unsightly and something that is going to cause damage to the city.

Another point is that there is nothing in this ordinance giving consent of mortgagee to provisions of ordinance and restricted use of land. I know that the moment the attention of Brother Sexton is called to it that that point will be covered. The Corporation Counsel has done most excellent work upon this ordinance. It is remarkable work when you consider that this matter was under consideration by the Park Commissioners for a long time, and the work of the Corporation Counsel had to be done in a limited time, and he had to take into consideration the rights and claims of various parties.

I might say, in passing, that I do not believe the Corporation Counsel's office has had the time and opportunity really to deliver the proper sort of an opinion as to what the conflicting claims and conflicting rights are; and I wish to add to that, that while it is true that this particular contract which is ratified by indirection—it does not need an express approval, it is really ratified by indirection—the passing of an ordinance here which is based upon this contract of December 11, 1911—while that has been under consideration by the South Park Commissioners for a long time, it has been under consideration by the people for a briefer space, and it seems to all of us it is not a matter that should be rushed through, but it is a matter that should be fully discussed. I myself doubt as to whether the ordinance is sufficiently explicit regarding the elevation of the tracks of the St. Charles Air Line and the Chicago Junction Railroad. It provides, you remember, that these viaducts shall have a clearance of at least nineteen feet over the tracks of the St. Charles Air Line and the tracks of the Chicago Junction Railroad as they may be now constructed—as constructed in connection with the Illinois Central Railroad, but the ordinance itself contains no provision as to where these two elevated tracks should come

down to grade. For all that this ordinance provides, the St. Charles Air Line and the Chicago Junction tracks might be elevated and extended in an elevated manner all the way to Thirty-ninth Street before they reach grade. I do not know whether the questions of grant of Thirteenth Street Pier are sufficiently clear or sufficiently covered so that unquestioned title will be obtained to that.

The ordinance gives the power to construct additional connection from a point on the St. Charles Air Line to the Illinois Central. It does not say that that shall be immediately adjacent to the present St. Charles Air Line. That is in Section 8, and the location is not sufficiently defined. That is in Section 9 on page 18. I think that Mr. Sexton and his associates here will agree with me—Mr. Hoyne and Mr. Skinner—that the use to which the land should be put should be better and further restricted. The ordinance further provides that they shall be used for no purpose other than tracks, switches, turn-outs and passenger stations. We ought to say in addition to that that it shall never be used so as to leave any question about the limitation of time. That ought to be safeguarded in every way.

I think you will agree with me that there ought to be a penalty imposed that if they are used for any other purpose that the title shall revert in order that your remedy shall not be merely by injunction.

Now let me say also that I personally think, and I think the other gentlemen will share my views, that we ought to have an opinion from the Corporation Counsel as to the present status of the litigation with the Illinois Central relative to the legal rights of persons along the shore of Lake Michigan. I do not think that any of us are sufficiently advised to take intelligent action upon that point. Speaking for myself I have followed this litigation for some time. I have been conversant with some of the decisions, in fact I was in one of the suits at one time, and yet I could not say, although I followed the decisions in the Supreme Court and the State Courts, that I would be sufficiently advised, although I am a lawyer, to pass at the present time upon these conflicting claims.

Now the argument is made—if it is not made now it will be made—that we are apt to lose the Field Columbian Museum, and furthermore, that we ought not to stand in the way of a great public improvement, and that we ought to make sacrifices and so on. Gentlemen, I want to say that that is not sound argument. It is not any argument that addresses itself to the situation at all. All of us know that at the time Mayor Harrison was standing between the people of the city on the one side and the street railroad companies on the other, that the same criticism was made by a great many people that Mr. Harrison

was interfering with the settlement of this question, but he continued to interfere until the thing was settled properly, and that is all we are interested in. This thing can be settled properly. It need not be settled immediately. It should be settled for the ultimate good of the people. We have gone on for years—and a great many years—and have had to do without the outer boulevard. Now we are building not only for ourselves, but we are, most of us here, are really building in this matter for posterity. If we are going to build for posterity, let us do it in the right way. Let us have it so that the lake front is open and that the Illinois Central's rights are not increased. We do not need any increase of those rights. Eventually the time will come, it is bound to come, and I think all of us will live to see the time when the people will insist that in order to have access to the lake front, which is their right, and which was taken away from them, and which should not have been taken away from them, that the Illinois Central tracks must be depressed sufficiently in a tunnel so that the lake front will be open.

When we look at this matter historically, I think that is another reason for dealing with this question intelligently. A few years ago I had occasion to talk to some gentlemen about their recollections of the early fights with the Illinois Central Railroad. I also read some of the newspapers and some of the records of that time. I remember that there was a meeting in the 60's, held on Michigan avenue by a committee of some of the Michigan avenue property owners, who objected to some of the encroachments of the Illinois Central Railroad Company. I think your grandfather was there, Mr. Hoyne. He was one of the leaders; but Mr. Hoyne and other gentlemen, I think, protested against what the Illinois Central was doing, and I think if it had not been for their protest this city would have been in a much worse state than it is; and I also remember, connected with that matter, that the representatives of the Illinois Central Railroad arose and threatened at that meeting that unless this persecution, as they called it at that time, was stopped on the part of the people—unless the people allowed the Illinois Central and the Michigan Central to go on and complete their tracks and make this land in the manner that they wanted it, they would take their tracks off of the lake front, and it is a pity that that threat was not carried out.

Now I know that in other cities—great cities, great centers of commerce, you take the great cities of Europe and cities like New York—are aiming to, are constantly aiming not to allow a great network of tracks, not to allow more trackage inside of the city on the surface than can be helped. In New York City, for instance, the New York Central has to go in under ground. It has to go underground a greater distance than

would be necessary for the Illinois Central. Why should we agree to increase this surface congestion? Why should we, by an ordinance of this sort, by the confirmation of a contract such as that of December 11, 1911, increase this barrier that is put between the people and the proper enjoyment of the lake front? Now whatever may be said to you gentlemen who are opposed to the confirmation of this contract, I say the day will come when you will all be praised for the stand you took against any such action.

Now you know what the people in the first instance are often disposed to criticise. We know how people, often the newspapers, criticised Montgomery Ward for the stand he took against further encroachments upon the lake front, and yet I have seen in some of these newspapers in later days praises for Montgomery Ward. I think the people all acclaim his praise at the present time and believe that it was a great improvement to the city that he kept the lake front open.

We should have a great water front. It is not my idea that the lands should be carried out an extreme distance—to carry the lake a half mile away from the people, but my idea is that the lake should be brought nearer to the people, and that the people should enjoy it to the fullest extent, but under this provision why the only object or real benefit of this would be derived by those who drive down, say from Twelfth Street to Fifty-first Street, and that is wholly unnecessary. The people can cross only by viaduct along some streets.

The worst result that could happen from a postponement of this matter, that is from a non-ratification of it at the present time, is that the Field Museum—the Field Columbian Museum—may be located in Jackson Park instead of down town. I myself am in favor of it being located more centrally if we can have it located there, but I do not mean that it should be located there at any price. I do not mean that the people should surrender their moral right,—their moral right and legal right—for the purpose of having the Field Columbian Museum located at Twelfth Street. It will not be inaccessible even in Jackson Park. In places like London, for instance, the British Museum is quite a distance from the center of the city, and yet a great many people have access to it, and the British Museum is probably the greatest museum in the world, and yet it is not located in the heart of the city.

Mr. REDFIELD: The British Museum is in the center, is it not?

Mayor HARRISON: It was probably at the time it was located. London has grown a little bit in recent years.

Mr. JOSEPH DONNERSBERGER (representing the South Park Commissioners): Mr. Chairman and gentlemen, I rise not to

apologize for anything that the South Park Commissioners have done in this matter, but there have been so many statements made here that I doubt whether they know what they are talking about. In the first place, the South Park Commissioners had no individual personal interest, either as a commission or personally, in the making of this contract. They were simply prompted by a motive that originated through the Act of the World's Fair. They were moved by the motive of the Park Commission—a Chicago Plan Commission was appointed here by the City Council to devise ways and means by which the lake shore should be made to have a connection with Grant Park and Jackson Park. It was with these things in view, and on the strength of an Act that was passed by the Legislature in 1907, which gives to the Park Commissioners the right to exchange property with the owners or otherwise so that the lake shore could be preserved. Now they were up against that situation. The Act was there. The Illinois Central owned nine-tenths of the riparian rights. The Park Commissioners should not fill in the riparian rights under the proceedings of the court, as I understand it, and could not get any of the lake front, and we were both there looking at each other—looking at the water, one could not and the other dared not move. The question came up as to whether—as to the location of the Field Museum. It was suggested by the trustees that if that place could be fixed nearer down town it would be desirable, and the trustees made an effort to see that the Museum was located at Twelfth Street. Now with those two things in view, condemnation proceedings and so forth, we worked all summer back and forth with the officials of the railroad company as to what sort of a trade could be made. The Park Commissioners always bore in mind that whatever trade was made under the law, it would have to be presented to the City Council for approval. We recognized that the Park Board was only an arm of the city government. We recognized it was only a matter of time when the parks would all be consolidated and would be a part of the City of Chicago. With all of those things in view and knowing also that after the City Council got through with their discussions of the question, the Circuit Court would have an opportunity to decide upon this thing, and that every man who objected would have a right not only to go before this body but would go before the courts before that contract was confirmed; so the Park Commissioners did not intend in any way to tie the hands of anybody that felt they were not getting a fair deal or a square trade.

The prices or values of property have been agitated here somewhat. The figures I gave to the gentlemen who presented them, are true, to the best of my judgment, but I cannot agree



with the gentlemen when they claim that land at Twelfth Street, out in the lake, valued at \$5.00 a foot, has the same value of \$5.00 a square foot when you get down to Forty-seventh Street or Fifty-first Street. As an illustration I will cite Michigan Avenue at Twelfth Street, where property is worth \$30.00 or \$40.00 a square foot, and you get out to Thirtieth Street it is not worth \$1.00 a square foot, hardly one-fortieth. Now when the gentlemen claim and make up figures that these riparian rights are worth \$30,000,000 to \$40,000,000, it is all imaginary, because the facts do not exist.

Now, as I said before, we have no desire—we want this committee to think this thing over carefully. We want them to determine whether there is anything that has been left out by which the city might be protected and where the public might be interested in securing protection. And for that reason the thing was referred to the City Council.

The question has been raised here, how are we going to raise the money to do these things? The Board of Park Commissioners have no money; they will have to apply for funds. They will have to appeal to the people to do this work if it is done; and when these gentlemen come up here and talk about what might be done, I realize it is a beautiful thing to them all,—how easy it is to put the Illinois Central down under the ground forty feet and how easy it is to build a boulevard. You know that is not practicable. You talk about railroads dividing the city—my gracious, here you have a mile of railroads between State Street and Canal Street, and still you are granting the privilege of more railroad tracks out west. You are dividing this great city into different sections entirely. You are dividing business property from residence property entirely by railroad tracks. I agree with them all that it is not a desirable thing, yet it is in the line of business promotion as everything is going on; it is progress. Why were the Northwestern people allowed to divide up this great city? It was because it was a great general benefit, not to the interest of one or two men who might own a few thousand feet of ground; it was not for that purpose at all. The whole city's interests are taken into consideration.

Now, gentlemen, this thing, as I say, was not a scheme of the South Park Commissioners; it was a scheme that was gotten up by the City Plan Commission fixed by your City Council. It was a scheme that was considered the wise thing to do—to preserve the lake front.

Now, if the Park Commissioners have the right to condemn that right of way and condemn those riparian rights along the lake front, I for one would favor doing that or negotiating on a new basis with the Illinois Central to find out what they would

do. We have tried everything that we could that we thought was best. We present it to you for your consideration, and if you think well of it and approve it, all right. Then when you get through with it, it goes to the Circuit Court and if they approve it, well and good. Then, gentlemen, we think we have done our duty to the best of our judgment.

Mayor HARRISON: Will you state what your estimate is as to the value of what the public is getting in this deal and what is given to the Illinois Central Railroad?

Mr. DONNERSBERGER: The Illinois Central gives up at Twelfth Street and Michigan avenue 39,000 square feet of ground, which is valued at about \$2,000,000 in round figures; it may be a little more. They are getting eight one-half acres of land east of the Illinois Central Railroad which I value at \$5.00 a square foot. Now that \$5.00 a square foot would make it practically one and one-half millions of dollars. Now it is claimed that that \$5.00 a square foot should hold good to Fifty-first Street, which is unreasonable, because it is not worth \$5.00 a square foot at Fifty-first street.

Ald. EMERSON: Along the lake front the value is about the same.

Mr. DONNERSBERGER: I beg your pardon, there is a big difference.

Ald. EMERSON: You try and buy some down at the south end.

Mr. DONNERSBERGER: You can buy property all along the lake front, at Forty-first Street and other places, you can buy property in there—it has been held at \$1.00 a square foot—\$1.00 and \$1.50 a square foot.

Ald. EMERSON: There is none on the market.

Mr. DONNERSBERGER: It is on the market. There is no question about that, but the farther you go out, the valuation drops. There is no doubt about that.

Now the public, to my notion, are getting this 92 per cent. of the riparian rights.

Now the value of riparian rights depends upon what you are going to do with it. If you are going to allow it to remain there, it is not worth anything. If they are improved they will be valuable. The same with the Illinois Central—the land that the railroad gets, the submerged land. It will increase in value after it is improved, \$5.00 to \$10.00 a square foot; it may get to any price, but I am telling you the present value. It, of course, depends upon what you make of it. The present valuation of the land that the public is getting by this proposition is pretty well fixed. There is no question about the value upon Michigan avenue, but there is an uncertain value as to these riparian rights.

Ald. GEIGER: Did you try to get the Illinois Central to electrify?

Mr. DONNERSBERGER: Yes, sir. The argument was that there was no positive system by which they could electrify. It was a question as to whether they could electrify by overhead trolley or underground trolley and that was a question that had to be determined.

Ald. EMERSON: It was a question of whether they wanted to or not.

Mr. DONNERSBERGER: It was a question of how.

Ald. EMERSON: An engineering problem, that is all.

Mr. DONNERSBERGER: It was a question of negotiation.

Ald. EMERSON: You made the best bargain you could?

Mr. DONNERSBERGER: Yes, and we submit it to you gentlemen now for your approval. If you think well of it, all right; if you do not think well of it, so far as I am concerned, I will throw up my hands. But I tell you, gentlemen, it was the best trade that could be made. There have been opinions expressed here today that at some future day you might be allowed to go to the Legislature and get authority to condemn these riparian rights, but that would mean a loss of the museum for downtown. It means a loss of the museum for the North and West Sides. That is what that would mean. If the commissioners had authority to condemn that property, why then this deal would never have been made, but under the circumstances and under the conditions it was the best bargain that could be had.

A CITIZEN: What do you value the land that the city is getting from the Illinois Central?

Mr. DONNERSBERGER: We are not giving them anything.

The CITIZEN: This 250 feet?

Mr. DONNERSBERGER: Everything we give them they have to make. The public are getting the riparian rights. It is all water they are getting and it is all water we are getting. That is all there is to it. They have the water next to their present right of way and we have the waters farthest out.

Ald. HEY: Has the Board ever examined the title of the land of the Illinois Central?

Mr. DONNERSBERGER: We had an abstract made by the Chicago Title & Trust Company, for example, what land was owned by the railroad and what land was owned by private persons, just an abstract from the Chicago Title & Trust Company.

Mr. REDFIELD: About 92 per cent.?

Mr. DONNERSBERGER: I said about 92.

Ald. HEY: Has the Board a copy of that abstract?

Mr. DONNERSBERGER: Yes, sir.

Mr. REDFIELD: You are welcome to that. The Board would be glad to submit it to the committee.

Mr. DONNERSBERGER: We got an abstract of title of the land belonging to the Illinois Central.

Ald. NANCE: I believe you stated it would be impracticable to lower the right of way of the Illinois Central, in other words, to bring the Illinois Central in through a tunnel. In what way is it not practicable?

Mr. DONNERSBERGER: The engineers claim that it would be necessary to enclose it in a masonry wall to keep out the water, and the expense would be prohibitive. That is the way it was expressed to the commissioners.

Ald. NANCE: They cross under the Hudson river into New York City.

Mr. DONNERSBERGER: Yes, sir.

Ald. HEY: Was any attempt made on the part of the Board to eliminate the storage yard of the Illinois Central?

Mr. DONNERSBERGER: No, sir.

Ald. HEY: Don't you think by the elimination of that storage yard a great deal of the switching which it does could be done away with?

Mr. DONNERSBERGER: The company claimed that the increase of switching facilities south of Twelfth Street would diminish the switching north of Twelfth Street 75 per cent. If they had more switching facilities south of Twelfth Street, why there would be 75 per cent. less north of Twelfth Street where there is the most disagreeable smoke.

The CHAIRMAN: Mr. Lee informed us that the Illinois Central contemplated building a large freight terminal at the river because they owned the land from Randolph street to the river. In that event you would be multiplying the switching?

Mr. DONNERSBERGER: Now we did not go into anything—

The CHAIRMAN: He informed us that the company contemplated that. If that is the case it would multiply the switching.

Mr. DONNERSBERGER: I am only telling you what we were told.

The CHAIRMAN: We should be making it possible for them to utilize their thirty tracks instead of what they have there now.

Mr. DONNERSBERGER: The same trackage would be north as now.

The CHAIRMAN: From Twelfth Street south there would be more to come in. If they build a big terminal there, then the congestion will exist perhaps to Fifty-fifth Street.

Mr. DONNERSBERGER: That is news to me.

The CHAIRMAN: That is what we were informed.

Mr. DONNERSBERGER: We were led to believe that there would be 75 per cent. less switching north of Twelfth Street than there is at the present time.

Ald. HEY: I would like to say before we adjourn that I

think this committee should be supplied with a copy of the statement made by the attorney brought here by Mr. Lee and also a copy of the pamphlet read here by the gentleman representing Mr. Rosenthal and others, as well as the statement made by Mr. Rosenthal, and a copy be submitted to the members of this committee—a stenographic report.

Mr. E. B. BUTLER: Mr. Chairman, before you adjourn I would like to say a word. I think Mr. Donnersberger is altogether too modest. I have been in attendance at the meetings between the Illinois Central Railroad Company and Mr. Hutchinson and Mr. Donnersberger, and I am sure that it is a good thing for Chicago that we have two such men, because we have made a good trade—as good a trade as could have been made, in my opinion. I want to say another thing, gentlemen, that I hope you will not forget that this bill was passed in 1907, five years ago, and we have been trying ever since that time to take advantage of that bill—in other words, to build this outer parkway. Please call it a parkway, do not call it a driveway. An outer driveway is a place for automobiles. For five years they have been trying to do this thing. We have not had the right man with whom to deal. Mr. Harahan, I am sure, would have been glad to have done it, but he did not have authority. Mr. Markham, the present president of the Illinois Central, I want to say, has been fair. I am not an Illinois Central man, but Mr. Markham has been fair and he has tried to meet these gentlemen. Mr. Hutchinson has been a bulldog in this matter, and Mr. Donnersberger. You see them here today; they look as though this thing was a finished thing now. It is an easy thing for these gentlemen to come here from the City Club and present this document, which is a very strong document. Mr. Lessing Rosenthal always presents a strong document. I think as much of Mr. Rosenthal as any man in this town, but he has always been on the other side of things that I am for. Here is the proposition—they claim that this property is worth about \$20,000,000. You notice, gentlemen, that when they figure the other side—where he figured the riparian rights he figured them at \$260,000 as the amount in value that we were going to get, but the amount they were getting was very much more in value.

Now, as I say, it is done, it is finished. I mean the trade has been made. For fifty years we have been trying to get the lake shore. We have made efforts to get it. Now we not only get the lake shore but this beautiful parkway. Why, gentlemen, do you know what we are going to get—a strip of parkway paralleling the Illinois Central, varying from 500 to 700 feet in width, making the entire lake front a park clear down to Jackson Park, also an island park a half a mile wide and nearly five miles long, with a beautiful park for all of that distance. We need all of the parks we can get, gentlemen, in this city. Those parks will

be connected by bridges at every half mile. Between those parks there will be a lagoon of quiet water where the small boats can sail and electric launches and light boats. Gentlemen, just imagine that.

Mr. Rosenthal has referred to the Field Museum as being accessible at Jackson Park. Why, gentlemen, the head of one of our great public institutions remarked to me the other day that the location of the Field Museum down here was worth the whole price of the thing. Just think what it means. Mr. Rosenthal says it was a good thing that Montgomery Ward put a stop to the location of the Field Museum on the lake front. Would it not be a good thing if we had the Field Museum up here? But here today after this is done, the Field Museum will be at the head of this beautiful Grant Park.

Just think what the picture will be when Grant Park will be completed, with this Field Museum, with the Illinois Central built over with viaducts, over the tracks, with the museum in the center. The viaduct over the lagoon will be high enough for boats to pass under with their sails set.

What difference does it make to you or me whether we give them fifty feet more or less of the lake? Can anybody say it is not a good thing?

In regard to electrification: The Illinois Central told Mr. Edison the other day that they would take two of his storage batteries and try them. Mr. Markham said they would electrify as soon as they could. Now, gentlemen, when that is done, what does that mean? There is no alderman who is going to vote for this thing that will not be very proud of what he has done. You will be able to walk up and down this parkway with your son or daughter and you can say to them in future days that you voted in favor of the improvement.

I will state that there is not a crooked thing in it. It has been as straight as a die. You can take my word for it. You can believe me.

Gentlemen, I thank you.

Mr. CHARLES L. HUTCHINSON (President of Chicago Art Institute, and a member of the South Park Commissioners): Mr. Chairman, I look upon this matter away above dollars and cents. There are two things to be accomplished. One thing that led us to take up the matter at this time was first to get the people down to the lake front, accommodating the people of the West Side, the North Side, as well as the South Side. Now I believe that that thing alone is worth, as the Mayor said, more than all that the Illinois Central is getting or is going to get. The next thing is to reclaim to the people the lake shore from Park Row to Fifty-first Street. Again you take the riparian rights, these cost the city nothing, absolutely nothing.

People may think the South Park Commissioners have made a foolish trade, but they have made the best one they possibly could at the present time, and the best trade that it has been possible to make any time within five years. I can bring you plenty of testimony here that I think will rank as high as that of the gentlemen who are now complaining, citizens whose opinion I think will be of value, to say that we have made a good trade.

Now you take your riparian rights, the city constructs a harbor, and the South Park Commissioners are willing that they should do so. You acquire these riparian rights for nothing. Under this trade we get all the riparian rights from Park Row to Fifty-first Street except about 2,000 feet belonging to the Walker Estate at Twenty-sixth Street.. You cannot take these riparian rights away from the Illinois Central Railroad. Even if you condemn them, it will cost you several millions of dollars to get those riparian rights. I do not believe any court will give them to you for \$1,000,000.

The South Park Commissioners have made this trade. They have asked the City Council to ratify the trade, but whether it is ratified or not, I believe it is a grand opportunity—the grandest opportunity that ever came to Chicago or ever came to this country, to get a magnificent park like Lincoln Park on the lake shore between Park Row and Fifty-first Street. It is the greatest opportunity that ever came. It is not worth figuring what it is worth, a million or two, more or less, what the Illinois Central gets in their trade. It is the best trade you can get at the present time, I am sure of that, because we have been in touch with the New York directors. It is not Mr. Markham alone, but there are men in New York that have something to say about this thing. It is the best trade you can get. I believe I can bring you plenty of testimony, citizens, as I said before, that will admit all that Mr. Rosenthal thinks is right in regard to valuations. We have to have the co-operation of the city to get the trade through. All we ask the city at this time to do is to give us Park Row east of Michigan Avenue, Indiana Avenue and two alleys; give us the riparian rights opposite the pumping station and allow us to move the pumping station at our expense. We will do the rest, and twenty-five years from today you will not say that we purchased it at too great a price. I do not believe that any gentleman in this room or any committee of gentlemen in this room could have gotten more than we did. We did the very best we could. Now if you let it go at this time and delay the case, you are going to lose the Field Columbian Museum on the lake front. I do not believe you could make as good a trade as this in five years, and you would be losing the Field Columbian Museum in the meantime. They

have until some time in March to change the location of that museum to somewhere down town without any additional expense.

Mr. CHARLES H. WACKER (Chairman of the Chicago Plan Commission): Mr. Chairman, I am not appearing here as the chairman of the Chicago Plan Commission, for the reason that that commission has up to this time not had an opportunity of considering this matter. I have been sending the ordinances as fast as I could get them to the commissioners and I agreed that just as soon as this committee agreed upon something, we would submit that ordinance and then bring it up for consideration.

But I have a right here to talk as a citizen of Chicago, and in no way committing my commission.

I look upon this whole proposition in the same way as Mr. Hutchinson does. I look upon it as the greatest opportunity that has ever been offered to the City of Chicago to accomplish something that if once lost may never return. We may be put in the same position that London was put in after the great fire of 1666. The city was advised to carry out certain plans which they failed to do. Today they are expending hundreds of millions of dollars to make good the blunder of that time. We have had other improvements neglected in this city through delay. I went up and down Halsted Street today. I do not believe there is a citizen that goes up and down that street but what admits that it was a blunder not to widen that street when the matter was up. It could have been done for \$5,000,000, and today it will cost \$15,000,000 to \$20,000,000.

Not only is the Field Columbian Museum involved here, but I want to say to this committee and to Mr. Pond, who appeared here before you and read that document—I think the figures were not on a fair basis. He said within the last few days—we were discussing this matter—that it was a great mistake putting the Northwestern depot in the heart of the city. I said I thought it was; they said they thought it was. There is involved in this proposition the moving of the Polk street depot and even the Union Station and the Michigan Southern south of Twelfth Street, facing north. If all that could be accomplished it would be one of the greatest things that could be accomplished for the City of Chicago, and all of that hinges upon the action that we take now.

It has been stated that certain bills were passed in the Legislature to do certain things. How long did it take? I happen to know that it took ten years to do some of these things. Are the conditions going to be such ten years from now, so you can carry out this plan as it is proposed to be carried out, on any such basis as we can do it now? Personally, I do not be-



lieve it can be done, and I for one want to go down in history, if that matter should ever be written up in history, as pinning my reputation on the flag of progress. I believe the greatest mistake that Chicago can make is to interfere with this improvement. I had nothing to do with the trade that was made, but I have unlimited confidence in the men who negotiated that contract, and I personally believe what they say when they say that the very best that could be done, after wrangling for months and months, was done.

To me, putting the Field Columbian Museum at Jackson Park, as has been stated, is not an insignificant matter. Take your records and look at the attendance at the Art Institute, and you will find that the attendance at the Field Columbian Museum, which is pronounced to be one of the finest museums of this kind in the world, and a museum that has more attractive things for our children than the Art Institute ever dreamed of having, has one-tenth—less than one-tenth of the attendance. The difficulty about that museum is in the people getting to it. I do not believe there is one gentlemen here who will say that Jackson Park is the proper place for it, with the center of population at the corner of Twelfth and Halsted Streets; and when it comes to the property owner—and one might infer from what has been said here that this property along the Illinois Central right of way was very valuable residence property and therefore might be damaged,—well, I happen to know that right of way. I know that the McAvoy Brewing Company is at Twenty-sixth Street, and Cooke's and every other thing that does not tend to improve property along that right of way is to be found there. I know, further, that up to at least Forty-second Street, that whole property is doomed to become business property, the same as I know that the property on the North Side from Chicago Avenue to the river, and from the lake to the river, is doomed, and at one time was the finest residential district in the City of Chicago. Today it is doomed. No man would ever dream of putting a residence into that district. I will even go further and say up to Forty-seventh Street.

What is property worth along the Illinois Central? You can buy it for any purpose or any price almost. I think the property there is so bad now that it cannot be worse.

Take our park, some one talked about the pollution of water. I have been going around this city and telling people that we would improve parcels of land anywhere from 75 acres to 100 acres for nothing, and I gave them my reasons. I was called on to state upon what grounds I made those assertions. I sent a communication that I would like to have read, if you have not read it. There were reasons given—grounds given why that can be done, and in conjunction with it there is an-

other reason that I can see, knowing as I know that from 35,000 to 50,000 people are dumped at the corner of North Avenue and North Clark Street every Sunday and holidays, all desiring to get to the lake. The Chicago Avenue cars, most of them, come from the West Side. Is there any reason in the park development that the Chicago Avenue cars should not run to the lake? Indiana now runs to the lake; it is the purpose to run the Twelfth Street cars to the lake. Is there any reason why the Twenty-second Street car should not run to the lake and the Twenty-sixth Street cars to the lake, and so on? For what purpose? To enable the people living on the West Side, who live in the congested districts—you know that congested districts breed vice and crime—give them a direct communication with the parks—not boulevards. The plan is not a boulevard. Every man who can pay a nickel will be able to go to the park.

The cry has gone on about the pollution of the water, and the citizens of Chicago have been called upon to pay \$60,000,000 for purifying it, which would be done away with, and the amount of money necessary for building the retaining walls would be gladly paid by the contractors for the privilege of having a place to put the refuse matter of the city, and the city will dump along the lake front, on the lake shore, behind the retaining walls this refuse matter and your water would again become pure. Today it is not pure after you have expended \$63,000,000, not to speak of the dumping that is going into the river and the material going into the lake right along contrary to law. That would be removed.

Speaking of the riparian rights on the North Side—I am a Northsider. The commissioners on the North Side were unable to acquire the riparian rights for nothing. That is why we have an eye-sore on the North Side—we have a block of residence property between two boulevards of the park. They settled with those people and they gave them what is to me most valuable property, because I know of no property that has a park on each side of it. That is the only place in the world where you can find that condition. Why? Because they had to settle with them. I do not believe you can get the riparian rights of the Illinois Central for nothing. You will have to pay them to drop all of those privileges. The opportunity is at hand. I believe in getting the best trade for the people that you can, but I believe the opportunity is at hand, and if you let it slip by I believe every one of us will live to regret the day and instead of being lauded for it, every one, Mr. Rosenthal, will be damned for it in the depth of hell.

MR. LESSING ROSENTHAL: Mr. Chairman, I do not want to tire the committee and take up the time, but I was very glad that I had the opportunity of hearing these gentlemen and to

know how they regard me and to know that I am still their friend. I am going to be one of these friends, and at the same time I want to tell them when I think they are wrong, and that sort of a friend is the best sort of a friend. There is no man in this community who has a higher regard for Mr. Butler than I have. I know there is no man who has worked harder for the community than he has. I admire his municipal lodging house, for which he is responsible, the Art Institute and all those grand things. He is a fine citizen. I want to work in harmony with him, but at the same time I am going to tell him that his views and mine do not agree.

Now, Mr. Hutchinson alluded to the Art Institute in comparison with the Field Columbian Museum. Of course it is not a fair test at the present time. In the first place the Field Columbian Museum is in a bad state of repair; is illy ventilated, I understand, and it is only partially heated and there is not the opportunity for a public attendance that there ought to be, and certainly not the facilities they have in the Art Institute.

Now it is possible that the gentlemen may have made the best bargain they could have made. Now what sort of a bargain are they going to make when you find out that the other fellows don't have to give up to you and you are at their mercy? If that were a proper situation I would say Amen, but it is not a proper situation. If the South Park Commissioners would want your land or my land for a park, they have the power to condemn it. Now I ask, gentlemen, why should they not have the same power with reference to the Illinois Central? Are we going to sit here and confess our weakness and say that the South Park Commissioners can take your land and my land away from us at a less price than you paid for it? They did it repeatedly for the small parks created here. They secured it on the South Side at a less price than the owners paid for it, and yet it was considered a great public benefit and they had the right to take these things by condemnation, or by the right, as we call it in law, of eminent domain. Now what sort of construction are you going to put upon an Act which gives the South Park Commissioners power to do this very thing with reference to any individual citizen, but ties the hands of the South Park Commissioners so far as the Illinois Central Railroad is concerned, and I say to you again that there is one section of that Act that is most significant: if a person is under a disability, if a person is not able to deal for himself, if a person is ignorant or not of sound mind, that person's land cannot be taken away from him by condemnation proceedings, but by the Illinois Central "No", you are restrained.

Now there is another thing: This city through the instru-

mentality of some members possibly of this committee got an Act through the Legislature last year giving the city power to condemn for certain purposes— for harbor purposes, bathing purposes, bathing beaches and so forth, and it would have been a simple thing—the simplest thing in the world, to have added to that law a section allowing them to condemn for park purposes. If it had been thought of, it would have been done.

I agree that it is not a question of dollars and cents—far from a question of dollars and cents, but it is a question of whether we should have an outer parkway, and at the same time while we are creating a parkway we should create an additional nuisance.

We should not offset the one with the other.

Let me point to another thing: a few years ago an ordinance was passed here in regard to Grant Park and was put through the Council. I venture to say that if Mr. Harrison had been Mayor of the City of Chicago at that time that the ordinance would have been vetoed. Everybody that passes along the lake front knows, and any number of strangers who have come and who have been shown the city, have said to me, "Why are the people who go along Michigan Avenue deprived of Lake Michigan"? Simply because the Illinois Central at that time—and I know whereof I speak—dictated the terms of that particular ordinance. Now this ordinance never would have been passed if it required a depression. Now the view of Lake Michigan is obscured. Now we ought not in a city like this to confess ourselves so weak and so incompetent that we are not able to deal with this situation in a proper fashion. We should have this proposition settled on the right terms, and it is in the power of this committee, it is in the power of the Council to insist that it shall be had on the right terms, and if the energies which are expended here this afternoon in discussing this thing,—if this energy was put upon the proper sort of a project, it would go through.

I want to say a word more. Mr. Butler alluded to my opposition to the boulevard link. Well, I am glad he did because it was a good illustration of what has happened. The first connection that was proposed was merely a boulevard on stilts, something that would amount to a mere viaduct in Michigan Avenue. Well, the result of it is that plan No. 3 is being considered. Everybody connected with the matter admits that the last plan is an improvement upon what was originally proposed, and yet if it had not been for the opposition of certain citizens, we would never have had the finer and more beautiful scheme.

Mr. Wacker says, Let us not blunder. I agree with him in that too. I think if we pass this ordinance in its present form

it will be a great blunder. I hope some day I can walk down the parkway with Mr. Wacker and we will both agree that this thing was properly settled without this additional grant being given to the Illinois Central.

I want again to thank you for permitting me to answer.

Mr. H. F. LEE: Mr. Chairman, the water front of Chicago, I wish to repeat, is the city's greatest asset, as a harbor and for terminal facilities, and I object to the cool assumption by many of the speakers that this outer parkway or outer boulevard, or anything you want to call it, ought to be built. I claim that this committee ought to safeguard the city, as it started to do, and I think perhaps, His Honor, the Mayor, would not veto that Harbor District Number 3 again if it was passed. I believe you should safeguard the entire water front. We have enough dry land to build boulevards on. We can build our streets on dry land. The water was made by God Almighty to sail boats on, and we must have terminal facilities for that purpose. That is the point I wish to make, and I wish to make it as forcibly as I can, that the lake front should be reserved as much as possible for harbor purposes.

The CHAIRMAN: Is there anyone else who wishes to be heard?

Ald. BRENNAN: I move that we adjourn.

Ald. HEY: I move that every member of the committee be provided with a copy of the stenographer's record taken this afternoon, as soon as possible.

It was moved and seconded that the committee adjourn until 3:30 o'clock Wednesday, January 24, 1912.

Thereupon the committee adjourned to January 24, 1912, 3:30 o'clock P. M.

PROCEEDINGS OF THE COMMITTEE ON HARBORS, WHARVES AND BRIDGES  
OF THE CITY COUNCIL OF CHICAGO.

Wednesday, January 24, 1912, 3:30 o'clock P. M.

Alderman Littler, chairman of the committee, called the meeting to order.

Secretary Harrah called the roll, showing the following members of the committee present: Aldermen Littler, Long, Nance, Emerson, Brennan, Geiger, Hey and Block. Others present: Mayor Carter H. Harrison, Messrs. Wheeler, Hutchinson, John B. Payne, Cummins, Kunz, Donnersberger, Sexton and Redfield.

The CHAIRMAN: Gentlemen, this is a continuation of the public hearing that was started yesterday. Now, if there is anyone in the room that wishes to be heard on the contract or ordinance drawn up by the Corporation Counsel, and submitted to this committee for its consideration, I would be glad to hear them at this time. Anybody who desires to be heard at this time will be given an opportunity to be heard now before the committee takes up the consideration of the ordinance, as a committee.

Mr. HARRY E. WHEELER (representing the Chicago Association of Commerce): Mr. Chairman, I think the association would like to say to the committee that at the time this proposed contract was first given for publicity it was referred by the Board of Directors to the senior Council of the Association, a body made up of all the retired presidents and vice-presidents of the association. They held several meetings in considering the terms of the contract and reported back to the executive committee for their approval, that so far as the terms of the proposed ordinance were concerned, that they were in favor of the general provision, assuming that the Council would safeguard these particular things that need to be safeguarded in a contract of that kind; the only exception taken being the position that there should be specific uses to which the ground on Thirty-first Street south should be dedicated, and not left open, as has seemed to be the fact in the original contract, and has since been changed in the amendments that have been presented—before any use to which the Illinois Central Railroad might see fit to put that particular ground. The discussion in the executive committee continued over two sessions, and I believe I can say to you gentlemen, for the Association of Commerce, that we stand for this contract as provided in the amended ordinance, especially Section 9, safeguarding the particular point that was made. And we stand for it, not in all its details, because we are not competent as an association or as a committee, to study those matters in detail as you gentlemen can well do, and safeguard your own constituents in this city, but the general principles are believed to be right and proper, and that the city is not giving in this case more than it is receiving in ultimate actual value. We believe that it is worth more to the City of Chicago to have this question of riparian rights settled now and amicably, and the lake front at the disposition of the people of the city to enjoy it and have a boulevard in it, and to have it properly improved, than possibly to have things a little better later on by some other mode of procedure, either litigation or otherwise, even though that were possible. And I think from the association's standpoint, without attempting to pass upon the details of this ordinance—

other than the fact that in general it is a desirable ordinance, amended as you gentlemen may see fit to amend it to safeguard the interests of the city—the association is willing to stand for it and to approve it, and to urge the passage of that ordinance so far as we are concerned, excepting that one thing that we objected to, which was clause 9, where we felt that there should be an absolute agreement as between the city and the South Park Board relative to the use of the strip of ground, especially from Thirty-first Street south.

The CHAIRMAN: It is amended, Mr. Wheeler. Do you think the amendment is ample?

Mr. WHEELER: I don't believe I am quite competent to pass upon that, but so far as I have been able to see, I should say yes, gentlemen, and I believe there is no criticism on the ordinance as amended in that particular. That is all. I thank you.

Mr. CHARLES L. HUTCHINSON: May I have the floor for a minute?

The CHAIRMAN: Yes.

Mr. HUTCHINSON (representing the South Park Commissioners): Judge Payne is here and he asks me to read this communication in reply to the document presented to your Committee on Harbors, Wharves and Bridges, by Mr. Pond and others yesterday. We beg leave to make the following reply:

CHICAGO, Illinois, January 24, 1912.

*To the Mayor and Aldermen of City of Chicago, Chicago, Illinois.*

DEAR SIRS:—Replying to a document presented to your Committee on the Harbors and Wharves by Mr. Pond and others, we beg leave to make the following reply. Certain statements made by the gentlemen in their communication are erroneous and misleading.

1. Under the contract made by the South Park Commissioners with the Illinois Central Railroad Company, the railroad company will acquire not 120 acres of submerged lands, as stated, but 108 acres of ground lying between the present breakwater line and the outside boundary line. In the trade, also, the railroad company gives to the South Park Commissioners, about 8½ acres of land at Twelfth Street, and 2½ acres of land at Thirty-seventh Street. Thus, the Illinois Central Railroad will acquire by this trade about 98 acres of new land in addition to that already occupied by them, instead of 120 acres as claimed.

2. The question as to the 42 acres of made land now occupied by the Illinois Central Railroad Company now subject to litigation on the part of the State, is not affected by our contract. That litigation is now pending, and its decision is not yet concluded.

3. The gentlemen state that for a distance of about two miles, the enlarged right of way will be 660 feet wide. This statement is misleading. For a distance of eight blocks between Sixteenth Street and Twenty-fifth Street, considerably less than one mile, an additional width of 460 feet is granted by this contract. Aside from this strip, a strip not more than 200 feet wide is granted south of Twenty-sixth Street to Fifty-first Street.

4. It is true that Mr. Donnersberger values the land to be acquired under this contract at or near Park Row at \$3,500,000.00. It is also true that Mr. Donnersberger did value the riparian rights of the Walker estate between Twenty-second Street and Twenty-fifth Street at \$20.00 per lineal

foot several years ago, but in attempting to purchase these riparian rights from the Walker Estate the Park Commissioners found that the trustees of the estate hold these riparian rights at \$100 per foot, or \$220,000.00. By this contract the South Park Commissioners acquired 92 per cent. of the riparian rights between Park Row and Fifty-first Street, amounting to over 21,000 lineal feet. If based upon the values set by the trustees of the Walker Estate, they would be worth \$2,100,000.00. There is no ground for believing as the committee states, that the riparian rights of the Illinois Central Railroad Company could be acquired under condemnation for \$430,000.00.

5. The valuation placed by the gentlemen upon the submerged land to be acquired by the Illinois Central Railroad Company under this contract is excessive. They have evidently based the value of the land to be acquired throughout the entire length at the price set by Mr. Donnersberger for the land at Twelfth Street, while, in fact, the value of land from Sixteenth Street to Fifty-first Street would not average more than \$1.00 a square foot, which is only one-third of the valuation placed upon it by the gentlemen.

The Illinois Central Railroad Company will acquire 108 acres of additional submerged lands instead of 162 acres, as the committee states. We value this 108 acres of land or 4,700,000 square feet at \$1.00 a square foot, making \$4,700,000.00. To this we will add the value placed by the gentlemen upon the 20,000 square feet acquired by the vacation of streets and alleys, of \$200,000.00, making a total value of land to be acquired by the Illinois Central Railroad Company, of \$4,900,000.00. It must be borne in mind, however, that this submerged land must be filled by the Illinois Central Railroad Company at its own expense. The South Park Commissioners will receive land valued at \$3,500,000.00 and over 21,000 lineal feet of riparian rights, which enables them to acquire and improve for park purposes, according to the present plan, about 1,550 acres. If we should figure the value of this land at the price assumed by the gentlemen in making the valuations presented to the committee, it would be worth to the City of Chicago over \$186,000,000.00, which, on the face of it, is absurd.

There are other valuable considerations granted to the South Park Commissioners by this contract, such as the right to extend all streets north of Twelfth Street, for their full width, across the present right of way of the railroad in Grant Park, and to cover 100 feet of the present right of way for its entire length from Park Row to Monroe Street. The Park Commissioners also have the right to extend across the tracks of the Illinois Central Railroad Company south of Twelfth Street four viaducts in every mile, and to bring South Park Avenue extended across its right of way.

By this contract the city is enabled to carry out its plan for establishing Harbour District Number 3, without any expense to the city for riparian rights.

The South Park Commissioners entered into these negotiations to secure the lake front to the people, and to put it in the power of the public to carry out the plan of the City Plan Commission. The commissioners believe that they have made a fair contract with the Illinois Central Railroad Company. It is also their opinion that the public after consideration will sustain them in this belief.

We do not believe that the gentlemen presenting this petition appreciate the great advantages that will accrue to the people of Chicago by the carrying out of the plan now presented.

Yours very truly,

JOHN BARTON PAYNE,  
C. L. HUTCHINSON,  
JOSEPH DONNERSBERGER,

*South Park Commissioners.*



Mr. CUMMINS: I have nothing to say at this time. I simply wanted to ask the committee for the courtesy of an opportunity to submit something in reply to the figures for computation presented in the paper just read by Mr. Hutchinson; if we find that desirable to do before the matter is finally concluded by the committee at its convenience, we should like to have an opportunity to be heard.

The CHAIRMAN: How long will that take?

Ald. EMERSON: If they want to make a reply, I think they ought to have the opportunity if it takes a week or two weeks. Let's get down to a good valuation basis on this thing here, both sides. I make a motion we allow the gentleman to produce his figures as soon as possible. If he can do it tomorrow, let him do it, or next week.

Mr. HUTCHINSON: We have had only one day in which to answer. We worked on that communication all the morning, and, Mr. Chairman, we do not want to delay it any longer than necessary.

Mr. CUMMINS: I think we can be ready at 3 o'clock tomorrow afternoon.

Mr. KING: The decision of the Supreme Court in reference to the 8½ acres of land where the rights of the Illinois Central Railroad were concerned, was after the order had passed the present administration. That is all you have reference to.

Mr. HUTCHINSON: No, but that is only my private opinion. That is not a part of our official report.

Mr. KUNZ: That is after the order had been passed.

Mr. HUTCHINSON: No.

Mr. KUNZ: That is the way I understood it.

Mr. JOHN BARTON PAYNE (Chairman of the South Park Commissioners): The case he refers to was the case between the State of Illinois and the City of Chicago, which was decided by the Supreme Court of the United States. It was before the ordinance of 1895 was passed.

Mr. Chairman, and members of the committee, I have not felt you expected me or members of the Park Board to appear before you to discuss this matter because, like yourselves, we are a public body and we have acted according to our best light, not secretly or in a corner, as somebody has suggested here, I understand, and our work is before the City of Chicago for approval or disapproval. And if you think it is not well done, or if you do not approve of what has been done, the understanding from the beginning has been that our work has been tentative. The final approval of the subject was with the Mayor and the Council of the City of Chicago. Perhaps you would like to know very briefly how this matter came about; and what our view is as to what the city has accomplished. Months ago it

was manifest in considering the Chicago Plan Commission, in considering our own South Park development, in considering the fact that we had a great lake here, which, for miles, was of no use and could not be reached by the people except with great difficulty, and then at only an occasional place, that the South Park Board was in a position, by virtue of the Legislature of the State of Illinois, to bring about a situation, if a trade of that kind could be made, by which the public would own the lake front, and by which people on Halsted Street on the West Side, by reason of the widening of Twelfth Street, and its extension to the lake, would be as near the lake and have as much access to the lake as the people at Randolph Street. That is the distance I am measuring from north to south.

In other words, that in the immediate present, the great opportunity of Chicago for development was in this direction. Now, the South Park Board did not act hastily nor did not act on its own responsibility in the first instance. I conferred with the chairman of your committee, not this committee, but Chairman Long, he is chairman of the Lake Shore Reclamation Committee, the committee to which that subject, as I understand the facts, went. I conferred with the Mayor. I kept him in touch with every step that was going on. I wrote him about it, and I called and saw him about it. I conferred with your Corporation Counsel. Not only that, but I wrote extensively to the publishers of the great metropolitan papers in Chicago, and I told them what we were proposing to do, and asked them to consider the question, and to study the question, and to be in a position to advise us as to whether we ought to make a trade, and ultimately to pass upon the merits of the trade when made.

Now, that situation covered a considerable period of time; I should say two or three months at least, and finally these negotiations, occupying days, I have no idea how many; Mr. Charles L. Hutchinson and Mr. Joseph Donnersberger all negotiating. I kept as closely in touch with it as I could. Mr. Hutchinson and Mr. Donnersberger, I am advised by them, and I have personal knowledge myself, were constantly in touch with Mr. E. B. Butler and Mr. Charles H. Wacker, and other gentlemen, representing the Chicago Plan. I am telling you this so that you may know that every step was deliberately considered. When the contract was in the shape where it seemed to us that we had made the best trade possible—the contract was not signed,—a meeting was held at which was represented every newspaper in Chicago, every daily paper—I mean English and German—the Mayor, Corporation Counsel, Chairman Long of the Lake Shore Reclamation Committee, Mr. Wacker, Mr. Butler, Mr. McCormick, who was Chairman of the State Commit-

tee having to do with submerged land, Mr. R. R. McCormick, and I don't know who else—oh, yes, the United States engineer in charge of the harbor; and the contract, not signed, was laid before these gentlemen, with a statement of what it meant to Chicago; with a statement of exactly what the Illinois Central was to get in detail, and the number of acres; just what it proposed to do, and every fact that was in existence at that time covering the subject; and I, speaking for the South Park Board, said we desired to be informed whether that trade should be made. And we were very much gratified, and I state now, with a great deal of pride, that there was not a single dissenting voice. Every gentlemen to whom the matter was submitted, approved without qualification or criticism the result of our work. After this meeting, I think, perhaps, the next day, the contract was signed—maybe not the next day, I am not sure about that, but a few days; and it was formally transmitted to the City of Chicago, to the Mayor.

Now, gentlemen, what does it mean, my friend, Mr. Cummins, talking about figures? There are situations that are not to be measured by figures. We may sit down here for a quarter of a century and discuss figures with gentlemen who do not stand for progress, for accomplishment, and for the ultimate upbuilding of our city. The gentlemen who do stand for all those things may differ as to the value of a strip of land; but they cannot differ as to the wisdom of giving to the people of Chicago its lake front.

Now, just a word about value. It is stated in this communication by Mr. Pond and these gentlemen that we did not consider the question of values. That is, I am sure, merely an inaccuracy, because these gentlemen, most of them, are friends of mine, and I give them credit for being just as honest as I am myself, but we do not see things in the same way. We did consider these values with very great consideration. Now, I had in my hand the estimate made by our General Superintendent, Frank Foster, a man all of you know, who has been Superintendent of the South Park System between twenty-five and thirty years or more; a more capable, high-minded intelligent man does not exist in Chicago, in dealing with the subject that we are here considering. He figures that the Illinois Central, after deducting the cost of filling, gets lands ultimately worth \$9,528,700.73, and considering the strip 600 feet only in width, and paying no attention to Mr. Hutchinson's suggestion about the possibility of a 1,500-acre park, which I will get to in a moment, the fact of considering the possibility of a 600 foot strip only, amounts to \$16,651,995.00, or a difference in our favor of something like \$7,000,000.00.

Now, I do not ask anybody to take Mr. Foster's figures,

or anybody else's figures. The truth about the matter is that it is a thing that cannot be measured in figures.

What is the fact? The fact is—and it is no use to quarrel with facts—the Illinois Central owns, except the Walker tract, the riparian rights from the south line of Grant Park, subject to what the city owns at that point, to Fifty-first Street. The Illinois Central can make no use of those riparian rights, but we are as completely cut off from any possibilities of using the lake front as if they could use those rights. We, on the other hand—I mean the Park Board—by virtue of the State legislation have the power, subject to the approval of the Courts and the City of Chicago, to use those submerged lands when and after we acquire these riparian rights; but until we acquire the riparian rights we cannot use a foot of the lake front.

Now, there is the situation; and it is no use quarreling with it; that exists now, and it is said in this paper, that we have not been able to get any legislation which authorizes us to condemn these riparian rights. That is the fact. We have no legal right to condemn, no power on earth of condemnation; but this pamphlet—I am speaking now of the objections filed by Mr. Pond and others—blames that fact upon the Illinois Central Railroad. Of course, that is an imputation that the legislature is under the control of the railroad. I decline to assent to that imputation. I am inclined to find people pretty nearly as honest as the rest of us. But be that as it may, we confront a condition. Of course, the Legislature has power to give us the right to condemn, but they have never done it, and they may not do it; and on the other hand they may do it; but in the meantime what happens? The public loses the Field Museum from Grant Park or from that vicinity. The public is cut off from the lake front. The improvement from the West Side by way of Twelfth Street is not possible, and our great plan of improving Grant Park with a stadium which would make us conspicuous in the civilized world in athletics is impossible, because before we can do it, we have got to have the right which this contract gives us to cross the Illinois Central by a sufficient amount of space to carry this stadium over the Illinois Central.

Now, do not misunderstand me. I do not mean that we cannot put up a stadium on the east side of the Illinois Central Railroad in some form. We can. But to make something which is something worthy of Chicago is impossible. That is what I mean.

Now, Mr. Hutchinson remarked that this contract gives us the right to cover over the Illinois Central 50 feet on the east side, 50 feet on the west from Grant Park north to Monroe, and on the west side all the way to Randolph Street. It would be a

very different situation to have a hole 100 feet than the present 200 feet. And the effect of this is to remove, as I am advised, something like 70 or 75 per cent. of the switching transfer work of the Illinois Central from Grant Park south of Twelfth Street; and I have explained that Twelfth Street is extended. We get the 85 feet necessary to get at the width which you have on the west side, and that is carried clear through, occupying the ground in part which the present station of the Illinois Central occupies, and is carried clear through to the lake; the Field Museum to be south of Twelfth Street, and facing Twelfth Street on the north.

Now, if my friends who signed this petition can suggest any means by which these things can be accomplished differently, better or other, than those we have suggested, I should be delighted to consider it. There is not a gentleman who has anything to do with this that has any personal interest in the subject-matter. It is purely a great public enterprise, and it seems to us, and it seems to me now, that Chicago is coming into her own by this trade, and she is writing a chapter in history which will redound to the credit of every man who stands for this proposition. I thank you, gentlemen.

The CHAIRMAN: Is there anybody else who wishes to be heard, for or against?

Ald. GEIGER: There were some amendments suggested yesterday by the Corporation Counsel.

Mr. SEXTON (Corporation Counsel): I take it you refer to the amendments of the Sanitary District.

Ald. GEIGER: There was one other referred to yesterday.

Mr. SEXTON: I do not recall it.

Mr. HUTCHINSON: I think possibly that clause regarding the pumping station might be eliminated. We might wrestle with that later, if it is the judgment of the committee.

Mr. REDFIELD: It can be made a part of a separate ordinance when that comes up. It did have a place in the ordinance as originally drafted, but now it is of no purpose.

Mr. HUTCHINSON: I see no reason for that clause about the pumping station.

Mr. SEXTON: The pumping station can be covered by an appropriate amendment. There will be a good deal of time and we can refer that to the committee.

Mr. REDFIELD: As far as the South Park Commissioners are concerned the provision in reference to the Thirty-ninth Street station is not necessary. If it is, it can be treated in a further ordinance when selecting another site, if that time ever comes.

Ald. LONG: I take it the amendment has no bearing at all

on the merits of this proposition, but as a matter of precaution it ought to go in to make the ordinance complete.

Mr. SEXTON: They submitted that ordinance to me this afternoon at approximately 3:30 o'clock. The matter can be taken care of in this ordinance.

Ald. LONG: If there are no others that desire to be heard, and as Mr. Cummins has requested a little time to reply to Mr. Hutchinson, it seems to me we ought to adjourn until some hour tomorrow when a final hearing can be had, and then at that time take up all the amendments and have a complete ordinance voted upon. I move, therefore, if there is nothing further before the committee, that we adjourn until 3:30 tomorrow afternoon.

Ald. BRENNAN: It can go over to some date when they can be heard.

Ald. LONG: They can be heard now.

Mr. CUMMINS: I have explained the situation when I was on my feet before. It is of course the very shortest possible time in which we could meet. If the committee should adjourn until day after tomorrow, instead of tomorrow, it would certainly suit us better, but I do not desire to urge that. And if the committee meet tomorrow, we will do the best we can.

The CHAIRMAN: I would as soon not make the appointment for tomorrow, because tomorrow we will have the Southern Traction matter up and it will take practically all of the afternoon, and some of the members of this committee are vitally interested in the Southern Traction Ordinance, and there is nothing on Friday except the Finance Committee, and if any members on this committee are on the Finance Committee, they will be able to come in here and sit on this committee, and that will give Mr. Cummins an opportunity to have his data in such shape as he can present it to the committee.

Mr. CUMMINS: May I ask that the South Park Board hand me a copy of the statement which was read? I have not been able to get one yet.

Moved and seconded that the committee adjourn to meet at 3 o'clock on next Friday afternoon, January 26, 1912.

Motion carried unanimously.

The CHAIRMAN: I would like to have a full committee here on Friday. I would like to have every member of the committee here. This is of double importance and I don't want to assume the responsibility of passing this with just a bare quorum. We will now adjourn to meet Friday at 3 o'clock.

Whereupon the meeting was adjourned until Friday, January 26, 1912, at 3 o'clock P. M.

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PROCEEDINGS OF THE COMMITTEE ON HARBORS, RIVERS AND WHARVES  
OF THE CITY COUNCIL OF THE CITY OF CHICAGO.

Friday, January 26, 1912, 3 o'clock P. M.

Alderman Littler, the chairman, called the meeting to order.

Secretary Harrah then read the roll, showing the following members of the committee present, to-wit: Aldermen Littler, Long, Brennan, Emerson, Nance, Block, Buckley, Kunz, Geiger and Hey. The following gentlemen were also present: Mayor Carter H. Harrison, Mr. Wm. H. Sexton, Corporation Counsel; Mr. Robert Redfield, counsel for the South Park Board, and Mr. Charles H. Wacker, chairman, Chicago Plan Commission.

The CHAIRMAN: The committee will come to order. This is an adjourned meeting, gentlemen, for the purpose of getting a little further light on this proposition between the South Park Board, the Illinois Central and the City of Chicago, and it will be a public hearing, and I have before me the names of several gentlemen who wish to be heard, and the first gentleman I will ask to address the committee will be Mr. E. U. Kimbark, president of the Association of Commerce.

Mr. KIMBARK: Mr. Chairman, gentlemen of the committee, I didn't come here today to address the committee on the subject, but merely to present a resolution of the Chicago Association of Commerce, passed at a meeting of its Executive Committee today. This resolution was passed by our committee in order that the position of the Association of Commerce should be distinctly and concretely understood. With your permission I will read the resolution. It is as follows:

CHICAGO, ILL., January 26, 1912.

*Hon. Harry E. Littler, Chairman.*

DEAR SIR:—We beg to advise you that the Chicago Association of Commerce, acting through its Executive Committee, has this day passed a resolution as follows:

WHEREAS, there is now pending before the Committee on Harbors, Wharves and Bridges, of the City Council of the City of Chicago, an ordinance in respect to certain matters connected with the execution of a certain contract with the Illinois Central Railroad Company and the South Park Commissioners, referring particularly to certain submerged and other lands along the shore of Lake Michigan between Grant and Jackson Parks, and the relocation of the Field Museum of Natural History; and

WHEREAS, said ordinance as now proposed has been carefully considered by this committee, and is deemed to be in the public interest, now therefore,

*Be it Resolved*, That the Chicago Association of Commerce does hereby endorse said ordinance, and respectfully urges a favorable report upon the same to the City Council.

Respectfully submitted,

THE CHICAGO ASSOCIATION OF COMMERCE.

By E. U. KIMBARK, *its President*.

That is all I have to say, Mr. Chairman.

The CHAIRMAN: Just make that a part of the record so as to take it up in the regular order. Mr. Fred Rush is present, I believe. We will hear from Mr. Rush.

Ald. GEIGER: I would like to ask Mr. Kimbark if that was unanimous?

Mr. KIMBARK: Absolutely unanimous, yes, sir, not a dissenting vote, practically the full committee voting, twenty-one out of twenty-three.

Ald. GEIGER: Who is the proper body of your association to take up such matters?

Mr. KIMBARK: The Executive Committee takes up such matters.

Ald. GEIGER: Don't you think it ought to be taken up by the full association?

Mr. KIMBARK: There is no way by which it can be done. The Executive Committee, under the by-laws, are authorized to act for the association. They represent the Board of Directors, they represent all members of the association, all interests.

Ald. GEIGER: Were all the members at this meeting?

Mr. KIMBARK: I believe there were twenty-one out of twenty-three.

Ald. GEIGER: It was unanimous, was it?

Mr. KIMBARK: Yes, sir.

Ald. KUNZ: I understand this is a resolution passed by the Board of Directors.

Mr. KIMBARK: By the Executive Committee.

Ald. KUNZ: Of the Association of Commerce?

Mr. KIMBARK: Yes, sir.

Ald. KUNZ: Did your association make any effort in the last Legislature to have an act passed by the Legislature for the purpose of condemning that property, that you know of?

Mr. KIMBARK: I think not, unless it might come along the lines of our efforts for the purpose of securing an outer harbor.

Ald. GEIGER: Do you know if your organization took part in having a bill of that kind passed or not, Mr. Kimbark?

Mr. KIMBARK: I do not.

The CHAIRMAN: We will now hear from Mr. Fred Rush of Kenwood, Chicago.

Mr. RUSH: Mr. Chairman, some few days ago I was requested by some of the officers of the Improvement Associations down that way to look at the terms of the ordinance to see if it had provisions in it that might prevent the operation of the streets behind Kenwood and Madison Park and Forty-third Street, as a railroad or switching yard, or any such uses, and we were very pleased to know that the committee had evidently



had that matter under careful consideration, and had language in the ordinance which was intended to cover that point very carefully, and you may be sure that we were better pleased this morning when we read in the newspapers that the Chief Executive of our city expressed himself as also having an opinion on that subject, namely, that the section of the right of way south of Fifty-first Street was not going to be used for a railroad yard or general switching yard or anything of that sort.

I understand that the Executive of the City of Chicago and the gentlemen who are interested in drawing up this ordinance are of one opinion in that regard, namely, that they do not think that the road should use that portion of the right of way. I understand that it owns part of that, and I think in talking to gentlemen who have that matter under favorable consideration that they will look to the committee for it.

A suggestion which I have to make on behalf of these associations is this, that the language, "to be used for railroad purposes"—I know there are some restrictions in there; for instance, that they can use it for passenger stations and railroad purposes, and so forth, and that they cannot have any freight houses, and so forth, on that portion of the right of way, and, if you please, we wish to suggest for your favorable consideration some language something like this, that while trackage may be used for incidental switching purposes, it shall not be used—I am not suggesting formal language—we will be glad to help formulate this language, if you please, but I will suggest the idea, that is, that the trackage shall not be used for switching purposes in general nor for the storage of cars in general, making a railroad yard of it.

I want the gentlemen to know that the Improvement Associations, and that those officers I have been in conference with, are very heartily in favor of this general proposition. It means more to us, perhaps, that it does to the city elsewhere. We are right down there in that locality, and we believe most heartily in this general proposition, and inasmuch as the Illinois Central says that it does not intend to use that right of way any different there, now, I think this is the time, if any, that we should put language in that ordinance that will prevent what I think is the choicest residence section in the world, at least as choice as any, from being next to a railroad yard or switching yard, the noises of which will be heard over an area of a mile at least, and if you will kindly give the same consideration that you seem to have done to this subject, and make that clause as reasonable as possible.

Of course, the railroad has to have switching in there, it will have to use switches for incidental purposes, but I think we can formulate language which will make it impossible to

use that two and a half miles south of Thirty-first Street for what would amount to a general freight yard. Gentlemen, it will be a great physical advantage to the City of Chicago up to Thirty-first Street, the thing as planned by the ordinance now.

Now, gentlemen, if you give them the same rights or anything like the same rights south of Thirty-first Street, you will help to destroy the most beautiful residence section in our city. I thank you.

The CHAIRMAN: Are there any members of the committee who have any questions they wish to ask Mr. Rush? We will next listen to George C. Sikes.

Mr. GEORGE C. SIKES: Mr. Chairman, I appear in behalf of the gentlemen who signed a statement here the other day, statements in which have been challenged, and in that statement, which primarily related to the financial figures, and which were challenged, it seems to us that not much attention was paid to the others, so what we have to say is divided into two statements. I am to make one which deals with the issues which we think they have not replied to, and another gentleman, Mr. Morton D. Hull, will reply, in the course of the afternoon, to those who have taken issue with the figures that were made on the valuation.

In their replies to the statement opposing the ratification of the agreement between the Illinois Central Railroad and the South Park Board, the supporters of that agreement confine themselves almost entirely to the one question of the comparative money values of the lands and riparian rights involved in the transaction. They have ignored altogether what the opponents of the agreement regard as far more serious objections.

We said in the statement submitted, and we reiterate:

1. That the privileges granted to the Illinois Central Railroad by this ordinance defeat in large measure the purposes which the supporters of the agreement have in mind: beautification and accessibility to the people of the proposed outer parkway. The widening of the railroad right of way to 660 feet, with no restrictions on smoking locomotives, is inconsistent with the City Beautiful idea.

2. That the grant by this ordinance, in perpetuity, of larger railroad franchise rights than the Illinois Central needs on its own account, gives to that company the power either to create on the lake front a great freight yard for the joint use of many railroads or to dictate the terms on which other railroads may enter the city, if it be decided to make the widened right of way serve as an avenue of approach for transportation companies in need of transportation facilities.

3. That it is immoral and subversive of public rights to

permit the Illinois Central Railroad Company to capitalize its control of the Legislature of this State.

The present right of way of the Illinois Central Railroad is 200 feet wide. A right of way of this width, with smoking locomotives, is sufficient to constitute an intolerable nuisance on the lake front. The new right of way of the Illinois Central, if the pending ordinance be ratified by the Council, will be about 600 feet wide, accommodating forty-five to fifty tracks, for about two miles south of Twelfth Street. For the remainder of the distance to Fifty-first Street, the width of the enlarged right of way will run from 400 to 450 feet. This gives more trackage than the Illinois Central can use for its own purposes. To what use is the enlarged right of way to be put? The Illinois Central alone is authorized by the ordinance to answer that question. The broad grant of power conferred is sufficient to warrant any railroad use. If a freight yard shall be created, the difficulties of electrification will be enormously increased. By this ordinance the Illinois Central secures for itself all the favors it is likely to want from the governing authorities of Chicago for years to come, and it takes upon itself no obligations in return whatever, as to electrification. On the contrary, it is authorized to make itself more of a nuisance on the lake front, by added trackage and by increased smoke and soot.

The lake and the outer parkway are moved further away from the people. To reach either, the people must cross a smoky maze of railroad tracks 660 feet wide. The long and costly approaches to the viaducts that will be necessary will increase the distance and injure property values to the west of the railroad. Will the South Park authorities seriously contend that vegetation can be made to grow successfully near such a right of way used by steam locomotives? Without vegetation, how can there be a beautiful park? If the answer be that the Illinois Central will electrify some day, will the supporters of this agreement tell the public on what the hope is based, except the possession by the public of powers of compulsion, some of the most important of which are surrendered by this ordinance?

This ordinance is more than a grant of lake front lands to the Illinois Central Railroad Company in fee simple. It is a perpetual franchise for railroad purposes, broad in its terms and contractual in form. Why should the Council approve a franchise grant of this nature without careful consideration of all phases of the fundamental transportation problem involved?

If lake front lands now owned by the public are to be filled in and used for railroad purposes, possibly as a great joint

freight yard, or possibly for the terminal accommodation of other railroads seeking entrance to the city, why should not the city know in advance what the plan is to be, so that it might reserve proper powers of control? Or why should not the public retain the title and itself make leases direct to the railroads needing the facilities? Why should the Illinois Central be granted public lands with which to speculate for its own benefit in the future needs of the community for railroad terminal facilities?

And what about the fundamental moral question involved in this proposition? Is the community that doggedly fought the traction war to final victory, at great sacrifice to its own interests in many ways, primarily on moral lines, going to permit its moral fibre to give way in order to bring about just a little sooner a plan of beautification that cannot be long delayed in any event? What shall it avail to denounce the legislatures of Illinois if the beneficiaries of the "system" that have controlled the legislatures of the past are to be calmly allowed to reap the benefits of such control? Joseph Donnersberger of the South Park Board says he would not for a moment think of entering into this bargain if the South Park Board possessed the powers of condemnation that ought to have been conferred upon it by the Legislature. He merely argues that this is the best bargain that the public, with its hands tied, by lack of proper legislative powers, can make with the Illinois Central. Are we to admit that the influence of the lobby maintained at Springfield by the Illinois Central Railroad is too strong to be overcome by citizens asking only what is their due? Are we to allow corporate interests generally to understand that they can get privileges to which they are not entitled, if they can make use of their powers with the legislatures to block needed public improvements?

The eminent citizens who have taken charge of this movement for lake front park improvement have never asked the people for their help. These gentlemen admit that they were satisfied that the South Park Board could not obtain from the legislatures the power to condemn. They, therefore, made no fight to secure this power.

Had these gentlemen asked for the legislation they really needed, and called the people to their assistance in getting it, they would not now find themselves urging the ratification of such an agreement as that in question. It is only within the last few days that the people have begun to understand that powers of condemnation for the South Park Board are necessary to save the community from exploitation by the Illinois Central Railroad Company.

The supporters of the agreement are right in saying that

money values are the least important of the considerations involved in this transaction. If nothing were at stake but the money values of the land surrendered by the agreement, whether those values be larger or smaller than estimated, the opponents of this ordinance might hold their peace. But we insist that the Illinois Central right of way on the lake front ought not to be enlarged to 660 feet in width, with the grant of perpetual franchise rights of a sweeping nature, especially in the absence of any agreement for electrification. Instead, the public should pay in money for such small tracts of land and riparian rights owned by the Illinois Central as may be needed for outer park development, leaving the railroad right of way at its present width of 200 feet.

We believe that the best way of dealing with the lake front park question is to explain it to the people; show that the South Park Board must have power to condemn land, and then go to the Legislature. No legislature would withstand the pressure which the people could bring to bear.

I understand that no attempt has been made to get enabling legislation. If the men representing this movement would ask for the legislation, the Legislature would grant it. Am I right in that, Mr. Wacker?

Mr. WACKER: No.

Mr. BUTLER: Mr. Chairman, I said the other day that it was with great difficulty that we got the bill at all. Those who know anything about it know that we barely got it. It was after a long fight, a long fight. I made twenty-six trips to Springfield myself. It was the year when we lost the other things. We lost the charter bill. Why didn't we get that? The citizens wanted it. I tell you, that we got it without the condemnation clause, and we thought we did well. It may be possible to get it some time with the condemnation clause, but not this year or next, and perhaps not for sixteen years. Well, I made that my fight, Mr. Chairman.

Mr. MORTON D. HULL: May I ask you a question, Mr. Butler? Why couldn't we get the condemnation clause?

Mr. BUTLER: Well, you tell them, Mr. Hull. You know. You were there.

Mr. HULL: Well, I want to know why we couldn't get the condemnation clause?

Mr. BUTLER: Well, you were there. Will you please tell them? I will tell you why. You want me to say that it was because of the Illinois Central lobby.

Mr. HULL: Well, isn't that the case?

Mr. BUTLER: Well, I will say this, that the Illinois Central has a very powerful influence in Springfield, but I do want to say this, that every friend of the Illinois Central in Springfield is

not a crook. I can conceive of a man being a friend of the Illinois Central who is not a crook, and I wanted to say the other day to a gentleman here who was speaking that I thought he was wrong in taking the attitude he did. Somebody suggested that he might have been a legislator at that time, and he took offense at it. I wanted to say to him that there was no reason for taking offense. There are good men in Springfield. You were in Springfield, Mr. Hull.

Mr. HULL: Thank you.

Mr. BUTLER: Yes, sir, and you agree with me, and to say that those things could be done is absurd, and to say that it can be done in six years is absurd. Now, may I proceed?

Mr. HULL: Yes.

Mr. BUTLER: Mr. Chairman—

The CHAIRMAN: Proceed, Mr. Butler.

Mr. BUTLER: Mr. Hutchinson has been ill for two or three days, although he has been at work. He has felt this was so important that he couldn't afford to stay at home and take the advice of his doctor, but he is too hoarse to read this report, which he has asked me to read, and with your permission I will read it.

The CHAIRMAN: All right, Mr. Butler.

Mr. BUTLER:

CHICAGO, ILL., January 26, 1912.

*To the Committee on Wharves and Bridges, Chicago.*

DEAR SIR: The South Park Commissioners are John Barton Payne, Joseph Donnersberger, Henry G. Foreman, Edward Tilden and C. L. Hutchinson. In the discussion of the question before your committee, the wisdom of the commissioners in making the contract with the Illinois Central Railroad Company has been called in question. After months of careful consideration and negotiation, the South Park Commissioners, assisted by Mr. E. B. Butler, have made a contract with the Illinois Central Railroad Company, by which the lake front is to be reclaimed for park purposes for the people of Chicago from Park Row to Fifty-first Street, and the Field Museum will be brought down on to the lake front within the reach of all the people.

This contract has been made. The South Park Commissioners ask your co-operation to enable them to carry out the plans of creating the park. In making this contract and before bringing it to you, we have consulted and obtained the approval of Carter H. Harrison, Mayor of Chicago; Mr. E. B. Butler, Chairman of the Plan Committee of the Commercial Club, and of Mr. C. H. Wacker, who has devoted much time to advance the interests of this plan. We have the approval of the Executive Committee of the Association of Commerce, and of more than fifty large taxpayers and public-spirited citizens of Chicago, including such men as A. C. Bartlett, Charles A. Stevens, Wallace Heckman, John J. Mitchell, Cyrus H. McCormick, H. A. Wheeler, Joseph Defrees, Henry B. Favill, A. A. Sprague, Ernest A. Hamill, Clarence Buckingham, J. J. Glessner, H. H. Carr and C. J. Blair. Before this contract was signed we held a conference with the leading editors of all the large morning and evening newspapers in Chicago, and there was not a dissenting voice. We present to you one of the greatest opportunities for the advancement of the City of Chicago ever presented to your honorable body.

Messrs. A. B. Pond, Joseph Cummins, Geo. C. Sikes, Robert Catherwood,

Thomas Swan, F. B. Johnstone, Jens Jensen, Samuel Dauchy, Lessing Rosenthal, Morton B. Hull and C. E. Merriam come here to protest, after a superficial consideration of the subject, as to the terms of the contract. I do not doubt the motives of these gentlemen; but I doubt if they have more wisdom, and are more disinterested and public-spirited than the gentlemen whose names I have quoted. They declare they are in favor of the contemplated improvement, but object to terms upon which it can be made at the present time. The contract made by the commissioners and the railroad company must go to court for ratification. There they will have ample opportunity to present their objections. The contract is made, and we seek your co-operation to enable us to make the great improvements contemplated under it. I believe that you will be convinced that this contract has not been made hastily. I believe that your committee and the Common Council of the City of Chicago will appreciate the importance of accepting it.

Yours very truly,

(Signed) C. L. HUTCHINSON,  
*Chairman.*

Ald. KUNZ: Do you remember Governor Deneen introducing a measure, or sending a measure to the Legislature, against the Illinois Central in regard to payment for their taxes, that was brought against the Illinois Central?

Mr. BUTLER: I didn't know that. I ought to have known it, perhaps, but I didn't know it.

Mr. HULL: I haven't the statement here now, but I expected to have by this time; it has been prepared, it is being type-written, and I expect to have it in a moment, and I will ask your indulgence.

The CHAIRMAN: All right. We will hear from Mr. A. C. Bartlett.

Mr. BARTLETT: Mr. Chairman—

The CHAIRMAN: Whom do you represent, Mr. Bartlett?

Mr. BARTLETT: I represent a citizen. I am simply here, Mr. Chairman, as a citizen and as a taxpayer. I am not interested personally in the Illinois Central Railroad. I am interested in the improvement and the welfare of the City of Chicago. That is all. I might say all my interest, because it goes a little further, because I have been in my feeble way assisting as I may towards promoting the plans known as the Plan Beautiful of Chicago, and I look upon this matter as interfering with the immediate fulfillment of putting into practice of that plan, I look upon it with a great deal of apprehension and with sorrow.

Now, I have known ever since this negotiation with the Illinois Central was started—I have known of the main features, the main steps in the proceedings, and I have known in a way, not in detail, but I have known something about the price of property as fixed by men who are experts upon properties that were to be exchanged by the Illinois Central for the property which they acquire from the City of Chicago. It does not seem to me—while I say I am not an expert—that the values fixed

were perhaps fair, but, as Mr. Sikes says, that is not a question of any very great importance as compared with the question that is before you, and that is before this entire community, with regard to what can be done for certain reliefs that are necessary in Chicago and for the beautification of this city.

I think perhaps that all of us are a little bit in the habit of criticising the Illinois Central Railroad more than we should. It has become a habit. The railroad acquired its right of way, as I understand, by grant from the State and by purchases it has made. Now, I assume that the buying of this property was done legitimately, just as honestly as has been the acquirement of any property by any of us in the City of Chicago, and that the Illinois Central Railroad therefore is honestly entitled to any increase in values, just as much as you and I would be entitled to the increase of property we might have purchased on Michigan Avenue at \$500 per foot which is now worth \$10,000.

But, as Mr. Sikes says, it is not a matter of very great importance. It is important, very important to the City of Chicago, but, as we know, we have been trying to acquire it for a long time. We have met with a very great deal of opposition, not by the citizens in general, but there have been men who have opposed it because they thought that the value of their property was being diminished in some way. They have opposed it.

Now, these gentlemen who have signed this petition are not moved by any such ideas or any such feeling of a desire in any way to block this plan. I understand that perfectly. They are just as public-spirited as we are, and perhaps more so, but I know about these difficulties that we have had in the past. Now, we have reached the time where this change in Chicago, this progress which we have all been looking for for a long time, can be made, and it would be a very grave mistake if because of some little differences between us and the Illinois Central that we should at this time lose the benefits that we can never acquire again.

I look upon the coming of the Field Columbian Museum down to the lake front as one of the most important things that could be done for the citizens of Chicago, not only for beautifying the lake front, but giving to the people of our city, to the people all over the city, access to that wonderful collection, and which will become more wonderful, and then the improvements which will extend along Twelfth Street are of incalculable value to Chicago. We can hardly calculate the benefits that will be derived by the City of Chicago by these changes.

Now, the question is, whether we can afford to put off in-



definitely these improvements for the sake of making a better bargain, a shrewder bargain, with the Illinois Central Railroad. We want to get just as good a bargain, just as shrewd a bargain, as we can, but if there are no other serious objections, it seems to me that this contract should be closed, and if it is ratified by the courts, that the work should go forward immediately.

As a citizen and taxpayer, I am perfectly willing that the South Park Commission should pay any one more than I think that property is worth, if this project can be carried forward with the least possible delay. I thank you.

The CHAIRMAN: We thank you, Mr. Bartlett. We will now listen to Mr. Cyrus H. McCormick, if he is present.

Mr. McCORMICK: Mr. Chairman, I am not here to speak for or against any corporation of railways, neither am I here to speak for the Field Museum, but I simply come as a private citizen and, as Mr. Bartlett has stated, as a taxpayer interested in the welfare of Chicago.

As I travel about the length and breadth of this country and other countries, I find that the name of Chicago stands high in the list of cities by their ability, by their progress. It is an ideal city, but I don't find it standing as high in the development of its artistic side as it ought to stand. We have made great progress in our Art Institute and in our university and in our orchestra, but to my mind the city has reached a critical point where a great opportunity is offered to us. It may be that in details it is not to our satisfaction as far as the trade is concerned. I have not gone into the details of this contract, but I earnestly believe that taken as a whole it is a wise and profitable thing for this city to go forward and make this contract. There are some times when a person has to take a broad view when they want to obtain a certain point. A business man has at times got to pay more for property, if he wishes to secure it.

I think that the City of Chicago will in twenty-five or fifty years consider that this bargain is cheap and that it is cheap for the City of Chicago to accomplish this magnificent Chicago Plan, which all of us are doing the very best we can to get started, and I believe that the accomplishment of this particular part of the plan will help the rest of it, and that the City of Chicago will be benefited, and I simply ask the privilege of being recorded as decidedly in favor of this action, and I hope that it will prevail. I thank you very much for this opportunity.

The CHAIRMAN: We will now listen to Mr. Wacker.

Mr. CHARLES H. WACKER: Mr. Chairman and gentlemen, you have heard what I have to say upon this subject, and I am

not going to delay the proceedings by going over the same grounds. You know that I believe the proposition should be dealt with on the broadest kind of basis. You know that I believe that the contract is one that will inure to the greatest benefit possible, inure to the benefit of the citizens of Chicago in general. I am surprised somewhat to find after listening to Mr. Sikes that the question of values has been dropped.

Mr. SIKES: No, it has not been dropped. You will hear about it in a minute.

Mr. WACKER: If I remember correctly, you adjourned to meet today in order to give the gentleman time to refute the figures which Mr. Hutchinson presented at the last meeting, and now we haven't received those figures, and I supposed the adjournment was to take place for that particular purpose, and I came here for that purpose.

Ald. LONG: Mr. Wacker, those figures will be presented by the next speaker.

Mr. WACKER: Well, I want to beg Mr. Sikes' pardon. I misunderstood.

Ald. LONG: Mr. Wacker, permit me to explain for your benefit. Mr. Sikes stated that they would divide what they had to say, he presenting the part not having to do with the figures, and Mr. Hull to present the figures later. If you would rather defer your argument until the figures are presented, you can do so.

Mr. WACKER: Well, I will. However, the figures didn't seem so important to me at the last meeting, but I will wait.

The CHAIRMAN: If there are no objections, we will listen to Mr. Rosenthal, and then, Mr. Wacker, we will listen to your talk.

Mr. HULL: I don't know why the statement isn't here. It evidently has been delayed.

The CHAIRMAN: Well, I guess Mr. Van Vliissingen is next. We will listen to him now.

Mr. VAN VLISSINGEN: Mr. Chairman, the last time I had the pleasure of speaking to you, I told you I spoke purely in my capacity as a private citizen, and that the association of which I was president had not taken any action, but since then they had a meeting, and they passed resolutions which the secretary will present to you.

The CHAIRMAN: What association is that?

Mr. VAN VLISSINGEN: The Greater Chicago Federation.

Ald. LONG: What part of the city does your association represent?

Mr. VAN VLISSINGEN: All parts of the City of Chicago. I wish to take up, if you please, some of the statements made by Mr. Payne, and the first one I would like to touch upon is with

reference to the question of whether there was or was not any secrecy in the matter of the negotiations of the Park Board in making this contract. As Mr. Payne has told you, or Mr. Hutchinson—I may quote them wrong by name—they say that there has been nothing to conceal.

Now, Mr. Chairman, I think that it is an accepted policy that in all matters of public concern the public be given a chance to be heard, and I am sure that I for one had no opportunity to appear before the South Park Commissioners, and I doubt if there are many gentlemen in this room that did have that opportunity. When the contract was ratified and signed, the newspapers came out with full page reports, and the thing was done. Now, whether there was any secrecy or not, I would like to read from the *Evening Post*.

#### COMPLIMENT GIVEN TO THE EVENING POST.

Charles L. Hutchinson says this newspaper deserves the greatest credit. Charles L. Hutchinson, member of the South Park Commission, says that when the *Evening Post* learned of the tentative plans, \* \* \* in the public interest it refrained from premature publication. "The printing of the story at the time probably would have prevented the completion of the deal, and therefore I think great recognition is due to this paper for its service."

Mr. Chairman, now they also let us into another secret at the last meeting. I have been present at all your meetings. The secret they informed us of was that they had a meeting at which the representatives of the newspapers were present, and this matter was laid before them. I am not opposed to newspaper influence in public life, but I think that when the Park Commissioners recognize that it is their duty to let the newspapers know, they must also recognize that it is their duty to let the public know.

In regard to the figures. The figures are not the basic objection to this thing. The basic objection is the smoke, soot and noise, but most of the time has been taken up in discussing the figures. Now, I personally have no objection to the Illinois Central Railroad being paid in dollars and cents all they are entitled to for the rights they are to surrender, but I have serious objection to their being permitted to double or treble their present smoke nuisance.

In presenting the figures for the Park Commissioners, they included among that which the Illinois Central gave the city the value of 1,000 or 1,500 acres of submerged land which might be put into the park. Gentlemen, that is not being given to them by the Illinois Central, that is being given by the State of Illinois, that now owns it. The Illinois Central is giving its riparian rights to those submerged lands, if they have any. If we are going to figure it out along those lines, that the city had 1,000 acres or 1,500 acres, why not run it right out into the lake,

and you will find that the figures will not go into the thousands, but millions.

Another point, that the people will get a foot of this submerged land. They cannot get a foot of it until the government gives permission to fill in the submerged portion of the lake. It is just possible that the government would permit the filling in of 200 feet, and they might permit the filling in of 300 feet. But we have no certainty that they will give the people what the railroad wants.

Another point, it was said that it should be taken into account that it cost the railroad a thousand dollars a square foot to fill this land, and that must be deducted from what the railroad was getting. At the previous meeting Mr. Wacker told us how this land could be reclaimed without a dollar's cost to the people by simply using the fill from the city, the ashes, and so forth. Now, the statement was conflicting. They say it cost the Illinois Central a dollar a square foot. Now, they figure that there are 1,500 acres, and taking those figures at a dollar a square foot, it will cost you at least \$5,340,000. And so much for the figures on the subject.

It is urged that this matter should not be delayed, that the interests of the city are such that we should go forward promptly. Mr. Chairman, there is now a suit pending, brought by the city and the Attorney General, with respect to the city's rights to this made land of the Illinois Central, and the passing of this ordinance is not going to remove you from the danger of litigation. Any one of the 500,000 or more citizens of the South Park District have the right to appear in court and enter their objections, and I am sure that among those people there will be found several Montgomery Wards to defeat the Field Museum proposition, and on that subject I will say something later.

Another point. Mr. Hutchinson spoke to us about what a beautiful thing it would be if this arrangement was put in along the right of way of the Illinois Central, for this proposed improvement from Twelfth Street north 100-foot right of way. Gentlemen, that is a good argument. If it is a good thing to cut a right of way down to 100 feet from Twelfth Street north, is it a good thing to make it 660 feet from Twelfth Street south?

Mr. Payne spoke of the proposed improvement to Grant Park, which was involved in this matter. They were going to erect there a magnificent stadium, I believe he called it. I am not quite sure. I presume it will be some place for sports. That it would extend across the Illinois Central yards, and they could have an entrance there.

But why all these efforts to screen this matter from the people? If there is to be a stadium built, Mr. Chairman, why

wouldn't it be better to put that in the center of population, instead of on the edge of the downtown district?

The Field Museum was compared with the Art Institute, and it was pointed out how many more people went to the Art Institute, and the central location was given as the reason. Gentlemen, there is a lot of difference between going to the Art Institute and going to the Field Museum. The number of people interested in the Field Museum is very much smaller than those interested in the Art Institute, and here again it is not a controlling factor. You might as well compare it with the attendance at the ball games. You find people going several miles if they are interested.

In all this conversation nobody has enlightened us as to what it is going to cost to make this wonderful improvement that is pictured to us, or where the money is going to come from to make it. I have in my feeble way tried to make some sort of an estimate, and it seems to me that it will run over twenty millions of dollars, and this South Park Board are so short of funds that they haven't been able to improve the small parks that they bought five or six years ago.

Now, Mr. Chairman, I think what the people of the City of Chicago want is not the Illinois Central Railroad right of way, but they want the shore restored, and whatever it costs in money I think you will find the people prepared to pay.

Another subject I wish to touch on just briefly. You make a restriction in your ordinance as to what the Illinois Central Railroad may or may not do with the land it gets. In touching on this matter I will admit that I am not a lawyer, I am merely a layman. It is a question of law, but I have had contracts quite a little in my life, and I insist that this contract between the railroad and the South Park Commissioners restricts the use that the South Park Commissioners may make of the part they get of the railroad right of way. It doesn't grant them a right to use it for any public purposes that later years may make necessary. It is limited to a pier, breakwater or boulevard. And those three are the same things, and you will find evidences of making that restriction in the exceptions I have made in the principal contract itself in relation to the Field Museum and the outer harbor. I thank you very much for your attention.

The CHAIRMAN: Mr. Hull, are you prepared now?

Mr. HULL: Yes.

The CHAIRMAN: Mr. Morton D. Hull.

Mr. HULL: Mr. Chairman and gentlemen of the committee, on behalf of the signers of the petition previously presented, I have the honor to submit the following reply to certain arguments in support of the lake front ordinance:

We fully agree in the view that the questions involved are above mere dollars.

The lake front should be made the people's playground, and it should not be forever marred by the ugliness, smoke and noise of a great freight yard. If by this plan we get the park free from this perpetual burden and eyesore, we should not balk at the money cost. But we do not.

Judge Payne said he would be delighted to consider any other method of bringing about the desired results. His inference is that there is no other method. How does he propose to proceed if the Illinois Central rejects the changes the city has made in the ordinance? Is the city helpless? Can the Illinois Central dictate the terms on which we shall use the lake front? Judge Payne appears to think they can. We say, no.

We must get the power to condemn the Thirteenth Street pier and the riparian rights, and take the things we want at a fair price, free from burdensome and intolerable conditions.

In the written statement submitted by the Park Board on January 24th there are such glaring mistakes of fact that it must have been prepared by a person who had but the slightest acquaintance with the subject.

1. Acreage. The acreage which the company will get is not 98 acres or 108 acres, as stated, but 162.5 acres, of which 120 acres are submerged land and 42 acres made land. These are the official figures of the City of Chicago, computed from a large detailed map by experts under the direction of the Corporation Counsel.

2. The gentlemen seek to ignore the 42 acres of made land covered by the suit of the State and city, by stating that it "is not affected by our contract."

The contract (page 2) states that the company "owns" certain lands adjoining Grant Park, and "claims to own the greater part of the lands and the riparian rights and other rights pertaining to such lands on the shores" between Park Row and Fifty-first Street. On page 3 it is stated that one of the objects of this contract is "that there may be confirmed in the company the right and title to the submerged and other lands between the easterly lines of its present right of way and the said boundary line as hereafter provided."

Article IV provides that on the confirmation of this boundary line "the part of said submerged, reclaimed, made and penetrating lands, and the waters thereon, situate and being on the westerly side of said part of said boundary line, and all right, title and interest in or pertaining thereto shall be taken, owned and used by the company" \* \* \* and the same are hereby vested in, transferred, assigned and conveyed to said company. The said company shall have and hold the fee simple title to any and all such lands, \* \* \* free from any adverse claim in any way arising out of any question as to where the shore line was at any time in the past or as to the title to any existing accretions."

It is thus clear that one of the express objects of this contract is to give the Illinois Central title to these 42 acres which the State and city assert in the pending suit do not belong to the company.

3. We submit that our statement that "for a distance of about two miles long the enlarged right of way will be 660 feet wide," is not misleading, as claimed. From Twelfth Street to Thirty-first Street is two miles. The right of way at Thirteenth Street will be 700 feet wide, thence tapering to 660 feet at Eighteenth Street. This width it holds to Twenty-ninth Street, then tapers to 400 feet at Thirty-first Street. It will be a freight yard accommodating forty-five to fifty tracks.

4. The fact that the public may be forced to pay \$100 per foot for the riparian rights of the Walker Estate, which the owners formerly contended were not worth \$20 per foot, merely serves to illustrate that without the power of condemnation the public must pay whatever price owners may choose to ask. It should, however, be borne in mind that the price asked by the Walker Estate is not for mere naked riparian rights, but includes a considerable amount of land now occupied by the city for a bathing beach. The naked riparian rights of the Illinois Central are obviously of less value per foot.

To say that the company has riparian rights on over 21,000 lineal feet is to ignore the rights of the public in the 42 acres in suit, which stretch along the shore east of the right of way for many thousand feet. We believe the contention is correct that the company by wrongfully filling in on the east of its shore lands has lost all right as riparian owner to object to further filling in by the park outside of these lands. The riparian right is simply the right to natural accretions and the right of access to the water. These rights they have cut off by their own act. We suggest that the opinion of the Corporation Counsel be secured on these points.

As to the value in condemnation proceedings of such riparian rights as the railroad may in fact possess, we have Mr. Donnersberger's estimate made officially in a judicial proceeding, of \$20 per foot. The unwillingness of the Illinois Central to subject their rights to condemnation proceedings in which the court and jury would award them the full and fair legal value, shows how little confidence they have in the value of such rights. They have, it is true, a large nuisance value, for blocking public improvement. But this value could not be considered in condemnation. They could recover only for the loss of right to natural accretions, and the right of access to the lake.

They have no right to build piers or to fill in a foot of submerged land, and the damage they would sustain by being cut off from access to the lake, which they cannot use in any way, would be nominal. As we have previously pointed out, there are no natural accretions on this shore. The records of the various I. C. suits involving shore lands are full of evidence introduced by the company to show that the entire shore is subject to destructive erosion. It is obvious that the right to accretions, when there are no accretions, can have little value. If there is any doubt on these propositions, the committee should ask the opinion of the Corporation Counsel.

There is excellent reason for believing that the rights could be condemned for less than \$430,000. There is not the slightest reason for believing that the Illinois Central could recover \$2,100,000 for them in condemnation.

5. We stated that "as far as we can learn no official estimate has ever been made of the value of the lands which the public gives to the company." We said this because two of the Park Commissioners informed us that this was the fact. Judge Payne did not state when Mr. Foster's estimate was prepared.

As to the value of the lands which the railroad would get, we do not ask the Council to accept our figures, though we believe them to be conservative.

The Council should determine the value of these lands for railroad purposes. What do the roads, such as the Michigan Central and others which use the terminal facilities of the Illinois Central, pay for the property which they use? These rentals should fix the value of the property. They will show facts regarding value and not mere opinions. The Council should determine these leases and get the facts. We can point to the door behind which lies the information, but we cannot open it. The Council can open it, and will fall short of its plain duty if it fails to do so. The books of a public service corporation cease to be private property when the public is concerned.

The South Park Board make the unsupported statement that the land is worth only \$1 per square foot. Even at this value, when figured on the true acreage of 162 acres, it is worth \$7,000,000, and not merely \$4,700,000 which the Park Board figures on 108 acres.

Judge Payne says Mr. Foster, Superintendent of the South Park Board, estimates that "the Illinois Central, after deducting the cost of filling, gets lands ultimately worth \$9,528,700." He does not state whether Mr. Foster has any knowledge of railroad values or whether this estimate, like other South Park figures, is based on 108 acres only. If it is, it shows a value of \$88,227 per acre, or \$14,292,774 for 162 acres.

The statement of the South Park Commissioners objects to our esti-

mate of value, on the ground that we have based the value for the entire length on the value per square foot placed by Mr. Donnersberger on the Thirteenth Street pier, and have no allowance for cost of filling in. This is incorrect.

Mr. Donnersberger stated to your committee that the land in the Thirteenth Street pier was worth \$5 per square foot. Figured at this price, the value of 7,000,000 square feet would be \$35,000,000, or \$14,000,000 in excess of our figures. It will be seen that our figures allowed for the cost of filling and averaged the value of the land between Thirteenth Street and Fifty-first Street.

We believe that for railroad purposes a large part of the land to be granted is worth more, rather than less, per square foot, than the Thirteenth Street pier; 92.5 acres of the total lie south of Thirty-first Street in a compact area, parallel to the main tracks, accessible to the St. Charles Air Line, and convenient for team tracks and freight sheds which may be built on it.

The Thirteenth Street pier is a thumb sticking into the lake at right angles to the main right of way. It is used for empty car trackage. It cannot compare in convenience, accessibility or ease of operation, with the new lands to the south. It is concededly worth \$5 per square foot for railroad purposes. We contend that the land to the south which will take its place will have at least an equal value for like purposes. We do not contend that this value persists to Fifty-first Street, but we do maintain that \$3 per square foot is a fair average value after allowing for the cost of filling.

Mr. Hutchinson stated that the cost of filling in would be \$1 per square foot. This is \$43,500 per acre. No authority was given for this statement. It does not square with his other statement that the lands to be made by the Park Commissioners in deeper water can be filled with waste material at the rate of 75 to 100 acres per year, without cost to the public. We are prepared to submit, if the committee wishes it, the estimate of a competent engineer that the cost of filling will not exceed \$16,000 per acre as an outside figure. We maintain it will be less, as it has been in Lincoln Park.

As 42 acres are already filled, there are left only 120 acres to fill, which at \$16,000 per acre amounts to \$1,920,000. Starting with the value of \$5 per square foot and deducting \$1,920,000 as the cost of filling, there is left \$33,080,000. The difference between this and our valuation of \$21,000,000 is \$12,080,000, which shows the amount Mr. Donnersberger's figures may be reduced to cover any decline in values between Thirteenth Street and Fifty-first Street.

To summarize the estimates:

	108 acres.	162 acres.
South Park Board .....	\$4,700,000	\$ 7,000,000
Mr. Foster .....	9,528,000	14,292,000
At. Mr. Donnersberger's figures for Thirteenth Street, less cost of filling.....		33,080,000
Estimate of petitioners.....		21,000,000

We ask only that the Council get the facts.

6. Another error is found in the statement of the—north and Twelfth Street across the tracks for their full width, and to cover 100 feet of the right of way north of Twelfth Street. This right is given by the railroad only "upon the operation by electricity of its tracks and terminals north of Twelfth Street," and the contract makes no provision whatever for electrification.

In conclusion, we protest against setting off against the lands the company gets, the lands embraced in the proposed park. The idea that the people are getting \$189,000,000 worth of lands in this deal is based upon the absurd position that the submerged lands now belong to the Illinois Central and are granted to the people by that railroad. The plain fact is that these submerged lands now belong to the people, and their value, great or



small, is no factor in this proposed contract. Those lands are not given up by the railroad. The public owns every foot of them now.

Shall we pay \$17,000,000 to the Illinois Central to be allowed to improve and use our own lands, and shall we at the same time forever damage their value by fastening on them a great freight yard?

This in detail was prepared by other members of the protestants, and I was very glad to read it for the committee.

Mr. LEE: Let me ask a question, Mr. Hull?

The CHAIRMAN: Wait until he finishes.

Mr. HULL: A few moments ago I asked Mr. Butler, and I speak now for myself and not for the committee, why the Park Commissioners couldn't get the riparian rights by getting their bill through authorizing them to condemn property along this water front, and he frankly admitted it was because of the lobby of the Illinois Central Railroad. Now, gentlemen, I have been a member of the Illinois Legislature, and it is a humiliation for me to stand under the name that Illinois Legislature stands under, but I think there is something far more fundamental than the question of whether the park of the Field Museum is located at Twelfth Street or anywhere else. If it takes six years or sixteen years, let us stand by our guns and fight the thing through as we did in the traction controversy, and not let us give notice to everybody that the State Legislature is owned by any corporation.

I firmly believe that a bill allowing the condemnation of those rights can be put through if there is a well organized campaign by the public asking the Legislature to put it through, and not let it be said by any man that this is a government of the Illinois Central, for the Illinois Central and by the Illinois Central. I thank you.

Mr. BUTLER: Mr. Hull, you misquoted me. I didn't say on account of the lobby. I said they had friends enough in the lobby to oppose it.

Mr. HULL: Well, that is about the same thing.

Mr. BUTLER: And, incidentally, let me ask you why you voted for this bill if you thought a better one could be secured? Why, then, should you vote for it? I would like to ask two or three questions at once, but I would like to have an answer to that.

Mr. HULL: I will answer your question. You thought it was the best bill that could have been put through at that time, and I voted for it, but if I was in your position—

Mr. BUTLER: I insist—

Ald. LONG: Now, Mr. Chairman, I must insist that this committee does not want to get off on side issues at Springfield.

Mr. BUTLER: May I ask a question? Would you stand for

those figures that have been made? Would you honestly stand for those figures?

Mr. HULL: Mr. Butler, I didn't actually prepare those figures. The gentleman, who is here, he can answer as to those particular figures, but I will stand for any figures that they made.

Mr. BUTLER: But you are on that committee.

The CHAIRMAN: May I have that report?

Mr. HULL: Yes.

Mr. LEE: May I ask the gentleman a question, Mr. Chairman?

The CHAIRMAN: Yes.

Mr. LEE: I don't quite understand. I would like to know if you stated, or if it is a fact, that this contract that you speak of, Mr. Hull, would confirm the present holdings of the Illinois Central Railroad Company in addition to the proposed gift of this area?

Mr. HULL: It will confirm the piece that is in litigation, as I understand it.

Mr. LEE: That includes the present holdings and the proposed additional land?

Mr. HULL: Yes, that is it, as I understand it.

Mayor HARRISON: Mr. Chairman, I don't want to enter into a discussion of this question before the committee, but there is just one point that I would like to call to the attention of the committee, and that is that a number of gentlemen who have spoken here have made reference to how we fought the traction companies and won victories. Now, I have personal recollection of how that battle was fought, and how it was won, and I am free to confess that the gentlemen who have been laying great stress upon how we fought and won the victory were not in the fight at all.

Mr. HULL: To my judgment, it was a fight in which a very great many people participated, Mr. Harrison.

The CHAIRMAN: Are there any other questions you wish to ask? Mr. Wacker.

Mr. CHAS. H. WACKER: I have a few letters here that I would like to file with the committee, and I hope that the committee will find it convenient to read them.

Ald. HEY: Better read them now.

The CHAIRMAN: Are they very lengthy?

Mr. WACKER: No, sir. One came from a man offering me 400 feet of vacant land, 179 feet deep, in the block immediately south of Twenty-second Street, in South Park Avenue, at the price of \$300 per front foot.

Ald. LONG: Mr. Wacker, pardon me. Have they to do with valuations entirely?

Mr. WACKER: Yes.

Ald. LONG: Wouldn't it be just as well to file them?

The CHAIRMAN: Some of the members want them read, that is all.

Mr. WACKER: That is at the rate of \$1.75 per square foot, and with all the improvements in, not made land. I also have a letter from another real estate man—they were not solicited at all—showing their way of figuring, and I have been asked by Mr. John Barton Payne to read a letter which I have from Mr. Aaron A. McKay, which I will do:

January 25, 1912.

*Judge John Barton Payne, President South Park Board, Chicago, Ill.*

DEAR SIR: Having lived here all my life, or over half a century, and having been in the real estate business for over twenty-five years, in which business period I have been a constant student of values, especially keeping track of values along the lake shore, makes me of the opinion that the attempted agreement between the Illinois Central, the South Park Commissioners and the City of Chicago, if consummated, all things considered, will be the biggest step forward, as a single matter, that ever occurred in the history of Chicago.

I make the bold statement that on the entire lake front of the City of Chicago, under our Illinois laws, shore property has not one single dollar of value in it, when in ownership by a private individual or corporation. The only body which can make it of value, unless by special grant from the Legislature, is a Park Board, which has the right to build out piers to protect shore land. No other corporation and no private individual is allowed to build out such piers, and hence an owner may have at one time, say 50 acres, at other times 20 acres, and, some time, will have none whatever, due to the action of the storms on the sandy beach.

I also state that shore property, without pier protection, has never paid one dollar of income, except in a few instances, where such owners have sold sand.

Next, no buildings have ever been built or can be built close to the shore line, without protection. The biggest dream or illusion that has been in men's minds has been the supposed value of riparian rights, which in a money value has never yielded a single dollar to any owner.

The Taylors at Ninety-ninth Street had 50 or 60 acres of supposed solid lands thirty years ago than they possessed when the South Park Board condemned and took the remainder some two or three years ago.

The William B. Ogden Estate lost money in the filling in of the land at the North Pier, so that when the land was divided some five years ago, it actually sold for less than the cost of the filling.

The Newberry people at Erie and Huron Streets have not made any money on their filling in, and the owners who filled in some years ago, north of the water-works, at Oak Street, sold their filled-in land for less than half what it cost them.

I have yet to hear of a single man who ever made a dollar on riparian rights in the front of the City of Chicago.

In Indiana, where they have a law that allows all riparian owners to build piers for protection at a special distance out into the water, each owner knows what amount he can have and that he can maintain such amount. No man can have such right or guarantee here in the front of the City of Chicago.

Before that Indiana law was made, there was a large stretch of ground from the present town of Gary east, that sold speculatively from \$25 to \$100 an acre. With the right to build piers to protect the made land and with the establishment of the gigantic steel works, that property has gone up to thousands of dollars of value per acre.

The Illinois Steel Mill at South Chicago got from the Legislature the right to fill in about 100 acres of submerged land at the request, not of the steel company, but of the majority of property owners in South Chicago, on the ground that such extension of the mill would be a vast benefit to South Chicago in money value, and such filled-in land, when completed, will have cost the company nearly, if not quite, the cash market value of the same. Or, to make it clearer, as much as solid land would cost them, away from the shore.

The history of all cities is that where men stop improvements, values go down and such cities go into decay. Take in our own city here, there are instances where street improvements have been thwarted for years, with the result that such property is worth less than it was many years ago, and the increases take place where streets and districts are kept up, which attracts high class improvements in the way of buildings, and values thereabouts are strengthened.

Without making a long statement, just think of the beneficial effect created by the building of the new Northwestern Terminal on all west side values, going out west as far as Ashland Avenue, and plenty of like cases can be cited.

The talk made concerning the 162 acres of submerged area to be given to the Illinois Central, that it is worth \$21,000,000 in its present condition, is sheerly absurd to me, because there is no process employed in arriving at cash market values of real estate that would show the prospective land to be worth a hundredth part of that sum of \$212,000, and then only to the Illinois Central and no one else, because for any person or corporation outside of the Illinois Central, owing to the lack of communication with that front from the west, and the difficulty and expense encountered in filling and building retaining walls, plus the cost of the number of viaducts that would necessarily have to be built from Lake Avenue to cross the Illinois Central tracks, would make the cost of that land, when finished, so high as to be prohibitive. Furthermore, it then even would be a piece of land of such shape that the private individual or corporation, other than the Illinois Central, could not use it economically or advantageously, and it can be only used by the Illinois Central on account of its present right of way siding along the entire length.

So that with the other great beautifying works that would follow from the conclusion of this agreement, I am of the mind that not only will such great works beget improvements by private individuals in such districts, but that the general benefit created for the city is even beyond the measure of dollars.

(Signed) A. M. McKAY.

Now, gentlemen, I desire to say just a word. We might go on for years with figures. We might ask you to give us the time to refute the figures which they have given us, but it would be endless. Suffice it to say that the men who have gone into this are backed up by the figures of the best real estate men in the City of Chicago, namely, the figures presented by the South Park Commissioners, and we believe them to be correct.

Ald. LONG: Before you go any further, I think this committee is pretty generally of the opinion that it is not a question of the land values, and if we go into the question of land values our hearings will become interminable, and I would like to suggest to those who speak to the committee, that they will be much more effective from our standpoint, to present arguments that concern the proposition as a whole, and not merely land values.

Ald. EMERSON: I beg to differ with you, Alderman Long. I think we ought to go into the question of values.

Ald. NANCE: I think that is a very important matter, the value of the land.

The CHAIRMAN: Well, if we listen to all the real estate men in Chicago, we will never get through. We will hear from Mr. Lessing Rosenthal now.

Mr. ROSENTHAL: Mr. Chairman, for the purpose of endeavoring to be brief, I have jotted down a few notes to which I will take the liberty of referring.

The Hyde Park Improvement Association has secured the approval, they say, of Mayor Harrison, and they also tell us that various distinguished men are in favor of this particular proposition. Now I want to say in answer to that, so far as I am concerned, I am only appearing here for myself, and I will not hear any one appear for myself, because if there isn't any merit in the argument I am making here, or in the facts or figures that I present, I want you to reject them, but at the same time I don't want you—I am speaking now only as an individual and not as connected with any organization whatever—I don't want you to consider any argument presented by any body of men, unless you know what consideration has been given to it; if they were simply asked to vote on this thing without giving a hearing to both sides of the issue. And what is going to make your judgment worth while as a committee of the City Council is the fact that you are deliberating about this matter and giving this matter a hearing, which in the days gone by was impossible to obtain, and I think it is a great credit to the City Council that it sent this committee here to listen and deliberate, to hear from all sides, and to listen and take in all the figures and all the arguments bearing on the matter and to arrive at an independent judgment, uninfluenced by any particular person who has appeared.

Now, so far let me say a word. The Association of Commerce, I think, is a body pretending to represent four thousand people. Well, of those four thousand people I happen to be one. I don't know a thing about what the Executive Committee has done. I have met a good many others who belong to the association, and they are not familiar with what the Executive Committee has done. I venture to say that it was a discussion of probably fifteen minutes by the Executive Committee of the Association of Commerce, at which a few pictures and drawings were presented, and both sides of this argument were not heard. I venture to say that there has been no endeavor, so far as the people are concerned, to hear both sides of this argument.

Of all the great papers brought here to this committee

there has been only one which has been willing to present both sides of it, and when I spoke to one of the newspaper managers about withholding their criticism of this matter, criticising the reporter for withholding it, he says: "Don't blame the reporter, blame me. I didn't think that ought to go out."

Now, this is the only place we can get a full hearing on this proposition. I don't know that the Improvement Associations of Hyde Park have acted as such. I am a member of two of them, and I didn't know that they were organized for any such purposes, or even that they were organized for the purpose of sending Mr. Rush here to tell you what those associations are for. I venture to say that there is nothing in the by-laws of those associations authorizing any member to appear here as representing any one of the associations, as representing their opinions in the matter. So far as the distinguished Mayor is concerned, no one has more respect for him than I have. I know that any approval that has been given to this project necessarily was a tentative approval. His approval must come after action is taken by the City Council. The law provides that method of doing this thing, and you might just as well say that a matter is settled in court before the judge renders his decision. Now let the argument proceed.

MAYOR HARRISON: Mr. Rosenthal, for your benefit I will say that I will withhold my judgment until the question is passed upon by the City Council.

MR. ROSENTHAL: Well, your Honor, it was wholly unnecessary for you to say that.

MAYOR HARRISON: It was wholly unnecessary for you to bring up the matter here.

MR. ROSENTHAL: Now, I didn't want any wrong inference to get out into the community, because the statement was made, and it was made unchallenged, that you have given your approval.

MAYOR HARRISON: That is tentative. If you can present any argument after the Council has acted, I would then exercise the veto, and veto the ordinance, but it must be real argument.

MR. ROSENTHAL: I was absolutely sure of that, Mr. Mayor, and that was why I made the reference.

Now, take the conclusions of the South Park Board itself. Before some time late in December nobody knew, or I think until after the middle of December, this contract was signed—December 16th. That was not a subject of public deliberation, not the subject of public consideration. I am not assailing the motives of any of those men, but they were blind to one side of this proposition. They were willing to sacrifice almost anything for the outer parkway, or they were willing to sacrifice it

for the Field Museum, and they were short-sighted, to my notion on the subject, because they lost sight of the real rights of the people and what was ultimately for the benefit of the people, and what this means to the City of Chicago and to all of us that have to build for the City of Chicago in the future. If that was not true, they would have taken a different attitude.

Now, what are riparian rights about which so much has been said here? I think that all of you here by this time are familiar with the fact that riparian rights are only rights of natural accretion; that accretion cannot be artificially produced in any way, and if it is artificially produced in any way the land that is thus produced belongs to the city.

Now, Mr. Wacker presented a letter from Mr. McKay and I heartily agree with much that is said in that letter. Mr. McKay said that the riparian rights are of no value because there are no natural accretions, and if there are any, it is artificially done, and, therefore, no allowance ought to be made for that. Well, if that is the case, the gentlemen who are presenting this contract to your body and asking you to confirm it, in which an enormous sum is being paid for these riparian rights, they ought not to do it, I say.

Mr. WACKER: Well, we are glad you like it.

Mr. ROSENTHAL: Yes, I think that is one of the best arguments on our side that could have been presented, and I want to thank you for presenting it, but if you had not presented it and turned it over to us, we would have presented it for you, because here is a man who is a real estate man and a practical man, who has looked into the matter and says that these riparian rights, if valued at the excessive valuation of \$100 per foot, would produce a total valuation of two and a half millions or about three millions. He tells you that they are worth nothing. Now, that coincides to some extent with what Mr. Donnersberger tells us, of the South Park Board, that he has valued them at \$20, and that the Mayor objected that the value was too high, and I am sure that in a condemnation proceeding they wouldn't put the value as high.

Now, I am talking about what Mayor Harrison has said as an individual, and not what he has said in his official capacity. And the same statement has been made by Mr. Donnersberger. What are you people getting? The people are getting \$186,000,000, if those values are correct, but from whom are the people getting it? Why, it is the most fallacious argument that could be injected into this controversy, because the people are getting nothing, the people have the thing now. The people are the owners of the submerged lands. The State holds it in trust for the people, and they are simply parting with 200 to 400 feet

of these submerged lands, giving them to the Illinois Central, but the people already have it.

A CITIZEN: Mr. Chairman, may I ask Mr. Rosenthal a question?

The CHAIRMAN: Yes.

The CITIZEN: In your opinion as a lawyer, Mr. Rosenthal, could the municipality of the City of Chicago or the State of Illinois, the Illinois Central having riparian rights, could they take these riparian rights?

Mr. ROSENTHAL: By condemnation proceedings, by paying them compensation, whatever the value is.

The CITIZEN: Can they do that?

Mr. ROSENTHAL: The State of Illinois?

The CITIZEN: Yes.

Mr. ROSENTHAL: Unquestionably.

The CITIZEN: Can the City of Chicago?

Mr. ROSENTHAL: They can do it for harbors and they can do it for bathing beaches, and they did it for the small parks.

The CITIZEN: But did they?

Mr. ROSENTHAL: Now, Alderman Long will support me in that.

The CITIZEN: What I am getting at, Mr. Rosenthal, is if in your opinion as a lawyer, the City of Chicago or the South Park Board is in a position to condemn the riparian rights that now belong to the Illinois Central?

Mr. ROSENTHAL: No. I am going to tell you why. I am going to say in just a minute. Now, to follow out the line of thought that I had a moment ago. Why, it is said it is costing the people nothing. You might as well say give the streets over to the traction companies for nothing. There they are. It is what is known as the conservation doctrine, a doctrine which has been refuted for the last few years. Some of the corporations that have been seizing the coal lands and the water rights. Why, they say, it is not costing the people anything. The water is there, and we are appropriating, and the coal lands, and the public owns them, but we are appropriating them. Why, it is an absolutely exploded argument in this day, and ought not to be injected into this matter, and ought not to be made by anybody, because the submerged lands belong to the people just as much as the streets of the City of Chicago belong to the people, and if they haven't any right to take into consideration the value of the submerged lands, then we haven't any right to derive a profit from the traction companies for the use of the streets in the City of Chicago.

Mr. WACKER: Do you consider that a parallel argument, Mr. Rosenthal?

Mr. ROSENTHAL: I beg your pardon.



Mr. WACKER: Do you consider that a parallel case?

Mr. ROSENTHAL: I do, I do. Now, so far as the right to condemn is concerned, the peculiar thing about this legislation is that in other park Acts, the park Act that authorized the Lincoln Park Board to extend its driveways, and other park Acts allowing the building of small parks, municipal parks, there are any number of Acts, and by any of those Acts the right to condemn is given, but simply as one Act.

Mr. BUTLER: If that is true, why can't you apply it to this? You ought to know that we can't do it, or we wouldn't have gone to Springfield to work for this bill. They can't do that. One park is like another park, and you can't make special legislation.

Ald. NANCE: Mr. Chairman, may I suggest that each speaker be allowed to complete his argument.

The CHAIRMAN: I was just going to suggest it.

Mr. BUTLER: I beg your pardon, Mr. Chairman.

The CHAIRMAN: That is all right.

Mr. ROSENTHAL: Now, they got that under one of the park Acts, authorizing the Park Board to extend their driveways or parkway, under those Acts, and it was said that the driveway could be extended from Jackson Park to connect with Lincoln, and proceeded under that Act which gives the power of condemnation. Now, this Act had been drafted similar to other Acts, so that the power of condemnation would never have been withheld, and why was it withheld? Why this power, which is lodged in the State by the people, should be withheld from people like the South Park Commissioners that were exercising it and are exercising it for the benefit of the people, why should that be the case?

Now, isn't it the most abject surrender to mere corporation authority? And I want to say that I represent a number of corporations, and I am not speaking here in the ordinary term. I have no objection to people simply because they are connected with a corporation. I am a stockholder in corporations, and all that. I am not using it in that sense at all, but I am using it in this sense, that where large corporate influences are exercised for the purpose of withholding from the people rights which the people ought to be empowered to exercise, and instead of putting the Park Board on a level with the Illinois Central, the purpose of this entire legislation is to tie the hands of the Park Board, and say, Yes, you want that; that is all right, you can have it, if you give us our price, because by no other method can you get it. They say that is all right. They say they will take that anyway. Before this contract can be ratified there must be a proceeding in the court. Any person can appear.

There is a sentiment against this project in the manner in

which it is being conducted. Many citizens appear against it, and before you get through with it, I believe that the enlightened sentiment of the people of the City of Chicago will be heard in some court.

Now, it is said here you are going to delay the time within which you can do this. The Northwestern Railway had the right to condemn. They have the power of eminent domain, and can exercise the power of eminent domain by bringing suit. When they wanted to come into the City of Chicago and build their new terminal on Madison Street, it didn't take very long after they made up their minds to have their station at the particular place, to acquire the property, and all appeals were allowed afterwards, and under the eminent domain act, after there is judgment in the lower court, possession can be taken, and appeals simply go to the question of damages. And so there will not be any extraordinary delay.

Now, furthermore, they say, "When are you going to get this through the Legislature?" "Why wait until the Legislature meets again, and then perhaps be balked by the Legislature?" The Legislature is susceptible to one thing to a certain extent, and that is the fear of a strong public opinion. If you have public opinion well aroused on this proposition, and the people aroused on the subject, I will tell you that the Legislature or any Legislature cannot fail to recognize it; unless they are thoroughly corrupt, they can't withhold from the citizens this right.

Now, yesterday morning I happened to notice on the second page of the *Tribune* that Governor Deneen had in mind the calling of a special session of the Legislature. After I read that—and I might say that his purpose was announced in the *Tribune* on account of the last appropriation bill, and also for the purpose of allowing primaries on the Presidential matter—I found out that Governor Deneen was here in the city. I got in communication with Governor Deneen at midnight and went to see him, and spent an hour with him discussing this particular proposition, and I am authorized by Governor Deneen to say if there is a demand for a special session of the Legislature for the purpose of enabling the South Park Commissioners to condemn and acquire riparian rights in that way, he will call a special session of the Legislature, and he said a mere expression by the Council, asking him to convene a special session of the Legislature for that purpose, since this question concerns all the people of the State of Illinois, would be sufficient to warrant him in proceeding. (Applause.) So this delay we have talked of, and which has been contemplated, is not as great as we supposed it would be, and all we need to do is to work for that

right in the same way in which we have been working here on both sides of this proposition.

Alderman Long, I have in mind what you said about the question of values, but I do want to say simply a word in answer to some of the arguments.

When you come to compute values here you may say that the question of values here is unimportant, but do you gentlemen recognize that this grant by the South Park Commissioners to the Illinois Central Railroad means more than the duplication of their present right of way? Now, if we are looking into the matter of values, why, just let us have some of these gentlemen figure up, or have their real estate experts figure up for us, what the value of the Illinois Central right of way is from Twelfth Street to Fifty-first Street. That is more than a duplication, and let us take that as a basis of the value, and I want to say to you gentlemen, furthermore, that we can produce you more than one railroad corporation now entering the City of Chicago or wanting to come into the City of Chicago that will pay you more than five times the value of the riparian rights of the Illinois Central Railroad as they may be adjudged in any condemnation suit, including—including, I tell you, the value of these grants along the shore for the privilege of coming across that strip.

There is not a more valuable strip in the City of Chicago than that particular strip, and why should it be given to the Illinois Central?

Let me tell you of another criterion of values. If you say that we are off in our figures, let us get the Illinois Central to tell us what it is deriving at the present time for its leases. Let it tell us what it is getting from the Michigan Central, what it is getting from the Wisconsin Central, what it is getting from the same roads for their strips of land, and let us have that as a criterion of values, because the income of a producing property is one of the elements that must be taken into account. And still another criterion—I made a memorandum of it—in 1898 the city purchased the land—and this is from the report of the Commissioner of Public Works for 1898, page 234—in 1898 the city purchased land 165 by 220 at Thirty-ninth Street fronting on Lake Avenue and adjoining the Illinois Central tracks; that was in 1898, almost fourteen years ago; the price at that time was \$74,000; the number of square feet were 44,550 on a basis of \$1.65 per square foot for that particular land, which was not railroad land, and figuring on the value of that—and I am willing to admit in my argument that the cost of the building, which is not an excessive cost, because the water is low at those particular points, is not large—and when you are estimating the value of these riparian rights, gentlemen, take into account also

that to a large extent those riparian rights constitute a liability at the present day to the Illinois Central, because the Illinois Central has to maintain the breakwater, and has to keep up the breakwater for the purpose of preventing erosions of the shore.

But all of us, I think, are agreed about this proposition that we are opposing, that it is not a mere matter of values. Mr. Hutchinson said here the other day rather dramatically, the last thing about this is dollars and cents. I would never be willing that we should put it on that basis. Others who are associated with me in opposing this are not willing that it should be put on the dollars and cents basis. But we are opposed to it on account of the great increase of those nuisances along the lake front, this impassable and unbearable barrier at the present time. And does the Illinois Central need such a width? And if the Illinois Central has it, why not give the Northwestern a right of way of this width, and the Northwestern is a bigger road, and does far more business, and is a road of much more consequence than the Illinois Central.

In the City of New York, why wasn't the New York Central given a greater right of way? And you don't see the New York Central above the surface of the street within the limits of New York City.

The main point of our whole objection to this enterprise, this whole scheme here, is the objection to a great freight yard in the center of the city. It has no place there, and you want to put it there, and you wish to say to these gentlemen who want to beautify this city: Yes, we will help you beautify the city, but we will not help you beautify the city and destroy your improvements at the same time by putting adjacent to what you have got, a great freight yard. We don't need it. (Applause.)

The CHAIRMAN: I will ask the gentlemen to refrain from any demonstration. This committee wants to deliberate on this matter, and it is not a matter of applause. We will try and get at the facts the best we can, and I would prefer to have every one refrain from any demonstration.

Mr. ROSENTHAL: I agree with Mr. Butler when he says that switching will destroy the most beautiful residence section of the city. I think he hit the nail on the head when he said that, but not merely switching, the running enormous railroad trains and the smoke and soot, and so forth, poured out by the engines, and other difficulties that will be concerned in having these enormous railroad yards, will also interfere with the beauties of that residence district, and will be destructive of it.

Now, we have got to look forward to the time, and this is no idle dream—I want to repeat, it is no idle dream—we have got to look forward to the time, when the Illinois Central can be

compelled to depress its tracks in the City of Chicago. You can compel depression of tracks just as well as you can compel the elevation of tracks, and although the railroads for a long time contested the elevation of the tracks, that principle was established, and the principle is established also that you can compel them to depress their tracks. Now, if they are depressed, the Illinois Central could come through a 200-foot cut, and the view of the lake would not be obstructed, and if I had Mr. Butler's power of portraying a picture, I could tell you how much more beautiful the aesthetic value—and because I am interested, and I know he is interested—how much more beautiful in aesthetic value would be a view of the lake or park, unobstructed by a great freight yard.

Now, if you are going to extend this freight railroad yard from 400 to 600 feet and some parts 700 feet—much greater in length than the distance here from Randolph Street to Washington Street, I believe that is about it, or a little more than 400 feet—I will ask some of our real estate friends to tell me. Mr. Tabor?

MR. TABOR: 396 feet.

MR. ROSENTHAL: 396 feet.

MR. TABOR: About 400 feet.

MR. ROSENTHAL: Well, we have it, over 400 feet from Randolph Street to Washington Street, and you are going—I say, 400 feet from the center of Randolph Street, and you are going to have a freight yard much bigger than this, much bigger, immediately adjacent to this supposed beautiful right of way.

Now, there is another thing to which attention has not been given. I do not believe that the museum will be lost to the city. Let me go back to history, and also to recent history. You gentlemen will remember that when Montgomery Ward persisted in his suits—which all these gentlemen now admit must be of great value to the City of Chicago, and when Montgomery Ward was damned up hill and down dale by most of the citizens of the City of Chicago, and by most of the newspapers, for the obstinate, selfish action which they said he was taking, but all applaud that action at this time, it was said at that time that unless he withdrew his action, that the museum would be absolutely lost to the City of Chicago. It has not been lost. It cannot be lost, because under the terms of the will the site has been located—has been selected, and I think that the directors or trustees of the museum will be public-spirited enough to wait until the appropriate time comes for the purpose of locating the museum in the right spot, and that this matter of delaying the construction of the museum a few years for the purpose of getting for the people what belongs to the people cannot seriously affect the final result. I think that the trustees of the Field Colum-

bian Museum ought to be public-spirited enough to see that the proper thing can be accomplished. There is no legal difficulty in the way of accomplishing it, none whatever.

It might be delaying us for a year in getting a beautiful building, but what of that in comparison with having this question settled right and preserving something that is really great and valuable to our posterity?

Now, this whole thing of granting four and a half miles of right of way of this width cannot be made dependent entirely upon obtaining a museum site. There are other methods of obtaining a museum site. There is nothing in the law, I take it, that will prevent the people of the City of Chicago, or the Park Commissioners, from being allowed to build a beautiful island not far distant from the shore line, but just far enough to allow navigation in between, filling in for the island. What is there to restrain the city from doing that? That does not interfere with the riparian rights, because the Illinois Central would still have access to the water. No interference whatever.

And the people will also be allowed, with the consent of the government, to build that island, and we may have in the end something more beautiful than is at present contemplated.

Mr. Wacker has said that he is for progress. I think he is. I think he means to be, but I think that the position that he takes and that the other gentlemen here take are steps backward. They are not steps for progress. They mean surrendering the rights that we possess at present. Now, that is common sense. I am not asking you to oppose this ordinance, and I do not ask any gentleman to take the same view that I do about it. I am not asking you to oppose this ordinance because the Illinois Central has acted in the manner in which it has in the years past. I am perfectly willing to decide this case and deliberate upon it on its own merits, but remember this, that it is not the first time that the people have had to meet for the conservation and holding by the people of this shore land. For years and years in this State and through the lobby in the Legislature the Illinois Central has attempted and endeavored to get hold of the rights of the people in the waters of the lake front, and it was not settled easily. It took years of litigation to prevent them from acquiring all of them. It took action on the part of the people, and it took a determined stand on the part of the men who were not frightened by the obstacles standing in the way of progress. Attacks have been made on the men who have come forward and voiced their sentiments. Many of the best citizens of Chicago were attacked.

And let me say that at first impression I was in favor of this contract. I was for the time being misled, I might say, of course not intentionally, by a beautiful picture that was spread

out before me. As I say, a picture of the green trees and the grass and all that, and the palms, and the buildings that may or may not be constructed in that particular way. For the moment I did not see this impassable barrier. That was not shown, that was not illustrated on the picture. The facts were not illustrated on the picture. But the situation was different when I looked into it, and every person who has appeared here, with whom I am associated in opposition to this thing, why, every one of these persons has changed his mind. I want to read simply one sentence. It is a long page, but I don't intend by any means to read this page. I want to read simply one sentence from the opinion of the Supreme Court in the case of the Illinois Central against the City of Chicago, in the 173d Illinois, page 471, and that was at the time the Illinois Central was contending it had a right to build a warehouse outside of this right of way, and the city had proceeded by lawful means to stop the Illinois Central from doing this particular thing.

The court said in that case, "but even if the grant in the charter was broad enough to include the waters of Lake Michigan" and that is what the Illinois Central was contending—"it does not follow that the railroad would have the right at any time it may see proper to take and appropriate for its own use any of the waters of Lake Michigan." It is true that the State holds title to the lands covered by the waters of Lake Michigan lying within its boundaries, but it holds both in trust for the people for the purpose of navigation. The State has no power to appropriate and sell lands as the United States sells its lands, but "the State holds title in trust in its sovereign capacity"—as held in 162d Illinois, page 138.

Now, in dealing with this question, irrespective of any action that the South Park Commissioners have taken, you ought to deal with it as a public body, and you ought to determine whether this thing in the end is beneficial for the people, whether it is the best thing the people can get. The thing to do is to reject this ordinance in the manner in which it is presented here, and start out confining the Illinois Central to its right of way, pay for the value of the riparian rights, call Mr. McKay as an expert witness to show that they are of no value, and we will have others to support him in that proposition, and I am not willing to have a very large value paid for that, and then we will have our museum site and our park site, and do it properly without making cowards of ourselves.

I want to thank you for your attention.

A CITIZEN: Does the committee desire to hear from anybody else?

The CHAIRMAN: I have some names here. We have about fourteen or fifteen other gentlemen that wish to be heard.

Ald. KUNZ: I move that we take a recess until tomorrow.

The CHAIRMAN: We can sit here for another hour, just as well as not.

Mr. LEE: Mr. Chairman, I have got a single page that I would like to submit to the committee.

The CHAIRMAN: We will take them right in rotation.

Ald. KUNZ: Mr. Chairman, I desire to move you that we take a recess until tomorrow.

Ald. HEY: Second that motion.

The CHAIRMAN: I understand that, Mr. Kunz, but these gentlemen have sacrificed their time to come here.

Ald. KUNZ: I have an appointment.

The CHAIRMAN: It is only a quarter after five, and there is no reason why we can't sit here half an hour.

Ald. KUNZ: Well, you are going to come here tomorrow.

Ald. BRENNAN: Well, why don't you put the motion?

The CHAIRMAN: Well, I thought perhaps Mr. Kunz would withdraw his motion. I was in hopes he would. Let us stay until half past five and we will adjourn, that is only fifteen minutes.

Mr. TOMAZ F. DEUTHER (Secretary of the Greater Chicago Federation): Mr. Chairman, I have here a resolution. I am representing the Greater Chicago Federation. We are a federation that are scattered all over the city, the South Side, and North Side and all sides. Mr. Van Vlissingen has given in detail all of the arguments, and this is a resolution adopted at a meeting held on January 24th at the Great Northern Hotel.

Ald. GEIGER: I would like to ask how many were present at the meeting when this resolution was adopted?

Mr. DEUTHER: There are twenty-seven associations, and each delegate has full power to act for his association on all matters.

Ald. KUNZ: Mr. Chairman, I would like to ask one or two questions.

The CHAIRMAN: Well, just a minute. Let him read the resolution.

Ald. LONG: I would like to ask if Mr. Deuther is going to present any arguments at this time?

Mr. DEUTHER: No. I will simply read the resolution:

The Greater Chicago Federation earnestly petitions your honorable body not to confirm the contract between the South Park Board and the Illinois Central Railroad. Our basic objection to the contract lies in the fact that it widens the Illinois Central right of way from Twelfth to Fifty-first Street about 225 feet and thereby gives the railroad the opportunity to construct a long railroad yard, make more noise and smoke and generally increase the present railroad nuisance. The boulevard advantages will be more than offset by this disadvantage.

We believe that all riparian and other rights of the Illinois Central which are needed for public uses should be condemned and paid for in



money and not secured by a trade which only makes bad worse, and that if condemnation is not now lawfully possible, that the matter be permitted to rest until the laws are changed.

THE GREATER CHICAGO FEDERATION,  
By E. A. DRACH, *President*.  
TOMAZ F. DEUTHER, *Secretary*.

Chicago, Ill., January 24, 1912.

That is all I have to say, gentlemen. I won't take up your time.

Mr. BUTLER: Mr. Chairman——

The CHAIRMAN: I have some others here. We will listen to Mr. Joseph Defrees now.

Mr. DEFREES: Mr. Chairman, it seems to me, as I said here this afternoon, that a good deal that has been said has only to do with the features and details of the matter, and that the whole thing is one of whether the advantage is with the public in this proposition. There cannot be any question or principle in it such as some of the gentlemen have suggested, because it is in the nature only of a commercial question in the matter of a trade between the South Park Commissioners and the Illinois Central, to which the ratification of the city may be necessary.

I remember some fifteen years ago that a similar project was up, and there was just as much enthusiasm then as there is now, and it got to a point a little bit further along, as I recall it, than the present project is, and it was interfered with by some technicality, and everybody who had worked for years and months on the proposition simply became tired, and it was delayed from that time until this. Men who have public spirit and who had been working all their lives constantly on this matter became tired and gave it up.

I venture to say that if this matter is defeated now, there will be another generation to take this matter up and carry it to a conclusion. It took fifteen years to bring it back again, and it will take another fifteen years. I cannot now think of a single gentleman who was active in the other project, and they have gone to their long rest, most of them. I was young myself. Let us see what happened. One ought not to be much excited when one is getting a bargain, if he is getting all that he is entitled to, no matter what the other fellow is getting away from him, if he is getting so much that he can afford to make the transaction.

This whole thing, it seems to me, turns on whether or not the advantages which will come from this transaction are greater than the disadvantages, the disadvantages arising, so far as I understand it, and so far as I have heard said here, from the increased right of way on the part of the Illinois Central Railroad, which will not only aid, but increase the tracks and the traffic going along the lake front. The advantage is the advantage that will come about by creating a great pleasure way and a great

park outside in the lake. The Illinois Central cannot now utilize its riparian rights particularly for its advantage. That may be admitted. If they make this transaction they will get some more land. The public gives up its rights to that land, but in its present form the public's right to that land is useless. It is said by getting the right of condemnation, which we may get from another Legislature, it can be condemned, and then we would have this park 200 feet nearer to the shore, and the railroad right of way and the traffic along there would be much less. So the question of delay is the issue and the whole proposition, compensated by doing away with the disadvantage of this additional right of way. It seems to me that is the only issue.

Now, the gentlemen ought to remember that the regulation of the use by the railroad over the increased and widened right of way will be exactly the same as it is now over its present right of way. The railroad is there, its rights are subject to public recognition, and it will be exactly the same it was before. The police power of the city and all the power will remain the same as they have been.

If this delay occurs, I venture to say that the gentlemen who are interested in this grant now, by the time they get through with the controversy in respect to the matter, will be so much discouraged that it will not now be carried to a successful conclusion. It is only a week or two ago when the matter came before a body at which I was present, and I was not there for the purpose of considering this, but it happened to come before that body, and one of the gentlemen who is one of the public-spirited citizens of this community, and who has devoted days and hours and weeks to this project, said, "Well, we have worked on this matter until we are tired. If criticisms are going to be made, and these small considerations are to be taken into account, we will have to give the matter up, and we won't go any further."

I am not talking about the justification of giving up the land, but I am talking about human nature. There will never be another matter as big as this project that will come up. Now, the disadvantage is the danger of the whole project—the disadvantage of delay—being lost. Even if the project should sustain life, the Field Columbian Museum will be allowed in the south end of the city, in Jackson Park, because the contracts which were made before this project was brought up, I understand, state that the commencement of the construction of the museum must be immediate and cannot be delayed, and cannot await the outcome of condemnation proceedings, which will delay it for several years.

MR. ROSENTHAL: Are they already digging?

MR. REDFIELD: I believe active operations have to commence in a month at least, Mr. Standidge so informed me.

Mr. ROSENTHAL: They are not tied down to this contract.

Mr. REDFIELD: I don't know. I am simply giving the best information I have.

Mr. DEFREES: I was not endeavoring to give a legal opinion. I am exactly in the position Mr. Redfield is in. A member of the Park Board, in speaking of this matter some days ago, said that if there was delay the museum would have to be constructed in Jackson Park, because their contracts were such as obliged them to commence within a very short time with the construction.

It means that. It also means that the Chicago Plan is to be delayed indefinitely with respect to Twelfth Street, with respect to the location of the passenger stations at Twelfth Street.

I don't believe I can add anything to what I have already said. I simply say it is very foolhardy to get excited about what the other fellow is going to get. The question is, Are you paying too much for the land you are going to get? Is this traffic that is going to be along that shore of such detriment to Chicago as to put off indefinitely the movement for the construction of this great breathing spot for the city? The regulation will be just as effective over that right of way as it is over the present right of way.

Ald. LONG: Mr. Chairman, I move that we take a recess until Monday at three o'clock.

Ald. HEY: Second the motion.

The CHAIRMAN: We will resume Monday at three o'clock.

Whereupon an adjournment was taken until Monday afternoon, January 29, 1912, at three o'clock P. M.

PROCEEDINGS OF THE COMMITTEE ON HARBORS, WHARVES AND BRIDGES  
OF THE CITY COUNCIL OF CHICAGO.

Monday, January 29, 1912, 3 o'clock P. M.

The chairman, Alderman Littler, called the meeting to order.

Secretary Harrah called the roll, showing the following members of the committee present: Aldermen Littler, Long, Nance, Emerson, Kunz, Brennan, Geiger, Block and Forsberg. Others present: E. B. Butler, Harry Goldstine (representing Chicago Real Estate Board), James A. Pugh, Lessing Rosenthal, Frank Comerford, Henry W. Lee and George C. Sikes.

The CHAIRMAN: Gentlemen, this is a continuation of the public hearings started the first part of last week, and I wish

to announce at this time that we will be delighted to hear from every one who desires to be heard on this subject. I do not want to place any restrictions upon anybody. I want every one to get an opportunity to express his approval or disapproval of this ordinance. That is the only way the committee can arrive at a proper solution of the points in the ordinance, and I hope that those who do speak will be as brief as possible and to the point and not take up any more time than necessary and still say all they have to say that they think will be of benefit to the committee. Now I will be glad to listen to Mr. Henry W. Lee. Mr. Lee represents the *Calumet Record*, a newspaper published in South Chicago.

MR. HENRY W. LEE: And, of course, representing myself as a citizen and taxpayer. Now, Mr. Chairman, the last time I addressed this body there was some question as to some of the statements that I made, so I have taken the precaution this time to fortify myself with data which will bear me out.

In the first place, I made the statement that the United States Supreme Court had given decisions to the effect that the Illinois Central had no riparian rights along the strip in question.

As I understand this thing, Mr. Chairman, we are in the position of two boys who were trading jack knives. One boy says his jack knife is as good as the other one, but does not show it, and if this other boy's jack knife is better than the first mentioned boy's, the first boy has the best of the trade, and consequently in this thing, if in the opinion of this committee it can be shown that the Illinois Central has not the riparian rights which it claims to have, why it has nothing to trade and, therefore, the proposition to present some \$20,000,000 worth of land, some 160 acres, to the Illinois Central is a very unfair and unwise thing to do. If we give them \$20,000,000 worth on one side and we get nothing in return I do not think there is very much argument to favor that proposition. It is a bad transaction. I call it a steal.

The decisions of the United States Supreme Court I have just quoted briefly—they will be explained more fully later on by Mr. Comerford, but I will refer to one. The statement is as follows: 146 U. S. Supreme Court Reports, page 1098. The Illinois Central Railroad Company never acquired by the reclamation from the waters of the lake, of the land upon which the tracks are laid in the City of Chicago or by the construction of its road and work connected therewith, an absolute fee in the tract reclaimed, nor a consequent right to dispose of the same to other parties or to use it for any other purpose than the construction and operation of a railroad thereon. There are other decisions here which

I will pass to the secretary for his information and for the information of this committee, and Mr. Comerford will discuss the matter later, but that is the main point.

Now, in addition to this, Mr. Chairman, under this roof and available for inspection to any citizen, is a signed statement by the Corporation Counsel of the City of Chicago—and I have not heard of any change of opinion from that office since—in these words:

"The Illinois Central has reclaimed from the bed of Lake Michigan along and east of the whole of said right of way within the limits above described (Sixteenth to Fifty-first Street) numerous large parcels of land of different widths entirely without warrant or authority of law, and the said Illinois Central Railroad Company having no right to make the same, the title to all of said land which has been so reclaimed is in fact in the State of Illinois and not as claimed by said Illinois Central Railroad Company."

That is the end of that quotation and that is the statement made by the Corporation Counsel of the City of Chicago. I will give you the numbers and everything else later.

Now I will say that anybody that has noticed the Illinois Central, if they will just go down to the water's edge at any place, will see that the breakwater is built out into the water. In other words, anybody can see that the original shore must have been further in and, therefore, that the breakwater and everything this side of it must have been reclaimed from Lake Michigan. That is a simple and common fact that anybody knows, and bears out the statement made by the Corporation Counsel that the Illinois Central does not own this land and all of it belongs now to the State of Illinois.

The statement goes on that "this is a great and irreparable injury to the State and that the occupation is a purpresture, the further maintenance of which should be enjoined and the lands already reclaimed thereby be either abated or seized."

That is the end of that quotation.

"Having no title to this land," in the words quoted, "along and east of the whole of its right of way from Fifty-first to Sixteenth Street," the railroad, of course, has no riparian rights and, therefore, has nothing to trade and, therefore, this is an attempt to put through a gigantic steal of millions of dollars worth of property.

Ald. LONG: Are you still quoting?

Mr. LEE: This is my personal opinion of the matter. And all this high-brow talk about the Field Museum and the other parkway and the widening of Twelfth Street and the Chicago Beautiful is merely part of the scenery and the stage setting of this interesting plot to rob the people of their land, and to divert further attention from the real issue, and present this public

land to the railroad who give nothing in return but who only pretend to give something they have not got.

There are other signatures to the opinion above quoted. There are other eminent lawyers who have signed this statement, lawyers and distinguished publicists whose zeal for serving the people against grasping corporations is well known. The statement is signed by Attorney General William H. Stead, State's Attorney John E. Wayman, C. P. Gardner and Edward Brundage, who was Corporation Counsel at that time, I believe, and the last signer to the document which states that the railroad has no right to this lake front land and, of course, has no riparian rights, and who asks that the railroad be enjoined and that the title be declared in the State of Illinois, the last signer is no other than our friend, Honorable Theodore K. Long, and Alderman Long is an expert in these matters. I learned today that he is at the head of the Lake Shore Reclamation Commission. He agrees with the Supreme Court.

This case we are talking about is in the Superior Court of Cook County, General Number 279409, Term Number 6601, the *People v. The Illinois Central Railroad Company, et al.*, filed May 19, 1910, and in connection with this case I looked over the papers and I find that it has been postponed from time to time, about a dozen times, I should say, and the last date that I noticed it was postponed to, for the correction of the information or whatever the legal term is, was the 1st of February, 1912. I think that is right, although I will not swear to it, and the South Park Board has entered its appearance in this case; the attorneys for the South Park Board being Tolman, Redfield & Sexton, so you see we have quite a nice little family affair of it here. Now these people say that the railroad company has no rights and no title to the land immediately along the shore, but the Chipperfield Report goes a little further. The Chipperfield Report denies the ownership of the existing right of way, most of which was built on piles out in the lake, as shown on this old map here. I can demonstrate this thing exactly. It is easier to tell a story with pictures than by telling it with words, and this map, which is a map of 1852, shows the Illinois Central built very largely out in the waters of Lake Michigan, and, of course, that water that is a part of the land that they now should own or not, that is a matter that is not before this committee. What this committee is particularly interested in is what the city gets in return for what it gives, and, of course, if the Illinois Central has nothing to give, the city gets nothing, and the Illinois Central gets nothing. Presumably that makes it a steal, in my opinion. You can see the railroad at various places runs right out into the lake, built out into the waters of Lake Michigan (referring to map), and the Supreme Court has made several

decisions touching upon this point. It is very fortunate we do not have to work by analogy in this case. We have opinions of the Supreme Court upon all questions. We do not have to talk about what a railroad did in Alabama or other states. We have opinions on the Illinois Central lake shore at this particular point. We have opinions of all these people, and I am sure that this committee will not care to present to the Illinois Central 160 acres of land in return for rights which, in the opinion of Alderman Long, do not exist. That is all I have to say at the present time, Mr. Chairman.

The CHAIRMAN: Do you desire to reply, Alderman Long?

Ald. LONG: I do not deem it necessary to reply at this time. I do not care to be drawn into a controversy as to a point of law with a layman. As a lawyer I object to the gratuitous assumptions of the speaker, but I will not answer Mr. Lee's assertions at this time. He does not make any argument to be answered. All lawyers understand that a mere idle assertion constitutes no argument. At the proper time I shall have something to say to this committee, but not at this time.

Ald. EMERSON: I wanted to know, Mr. Chairman, whether this case was docketed for trial.

Ald. LONG: It is on the trial calendar, and there are six other cases in which the Lake Shore Reclamation Commission is interested—the seven cases covering all of the lake shore from Grant Park to Jackson Park.

(Mr. Lee then filed with the secretary the following document, which he requested be put in the record of the proceedings:)

*"United States Supreme Court Reports 146-387. I. C. R. R. v. Illinois:*

The legislature of Illinois cannot deprive the State of control over the bed and waters of the harbor of Chicago and place the same in the hands of a private corporation.

\* \* \* \* \*

176-622:

Submerged lands along the shore of Lake Michigan were not included in the grant to the I. C. R. R. Co. by its charter authorizing it to enter upon and use 'all lands, streams and material of every kind,' and declaring that 'all such lands, waters, materials and privileges belonging to the State are hereby granted to said corporation for said purposes.'

\* \* \* \* \*

It may be added here by way of additional explanation that the following sentence in the charter is as follows: 'Provided that nothing in this section contained shall be so construed as to authorize the said corporation to interrupt the navigation of said streams' (assuming that Lake Michigan is a stream and that the State intended to allow the I. C. to use its present right of way, which is a matter of grave doubt).

\* \* \* \* \*

146-1018:

There can be no irreparable contract in a conveyance of property by a grantor in disregard of a public trust, under which he was found to hold and manage it.

\* \* \* \* \*

The I. C. Ry. Co. never acquired by the reclamation from the waters of the lake, of the land upon which its tracks are laid in the City of Chicago, or by the construction of its road and works connected therewith, an absolute fee in the tract reclaimed, nor a consequent right to dispose of the same to other parties or to use it for any other purpose than the construction and the operation of a railroad thereon."

MR. FRANK COMERFORD: Mr. Chairman, I do not pretend to be a distinguished lawyer; I am not a member of the City Council. I have examined the files and I presume some one admitted to practice in the State and Supreme Courts of the State of Illinois is within the purview of the general definition of a member of the Bar, and a lawyer. There is such an information pending and it is signed—I have a copy of it here—"In the Superior Court of Cook County" and is waiting to be adjudicated, and I make this statement without making any accusation concerning Mr. Long or Mr. William H. Stead or John E. Wayman, the States Attorney of Cook County, but one of two things is sure, that either at the time this opinion was filed the gentlemen representing the people of the State of Illinois were misinformed and stated to the court facts—

ALD. LONG: Mr. Chairman, I do not want to interrupt Mr. Comerford, but if Mr. Comerford has any argument, any good argument, legal or otherwise, to present to this committee, we should like to hear it. There is no necessity of him coming in to us with statements in regard to Mr. Brundage—I think it might be just as well to eliminate personalities. Mr. Lee unfortunately is so constituted that he cannot eliminate personalities. I take it that Mr. Comerford is a gentleman, a scholar and a lawyer, and I would ask him to direct his attention to the issues before this committee.

MR. COMERFORD: If the chairman will permit me to overlook the sarcasm of the scholar and gentleman and lawyer, I will—

ALD. LONG: No sarcasm was intended. I mean just what I say, you are an accomplished lawyer. I am saying it seriously.

MR. COMERFORD: I am not characterizing the Attorney General; I am not characterizing Mr. Sexton; I am not characterizing Mr. Long. If I may have the privilege of addressing this committee, I offer as pertinent the preliminary remarks that I have just made, not as characterizing any one, but merely as facts that should be before this body sitting in its legislative committee to determine the merits of the passage of this ordinance at this time. I do not mean to be offensive to Alderman Long. I have not said that I thought Alderman Long is anything but a gentleman; I have not questioned his motives. I do not question his motives, but do say, though, that when a petition is filed in court those who sign that petition take the responsibility for the petition. If it should develop that sub-



sequently to the filing of that petition the attorneys come to the conclusion that the facts upon which they predicated the petition were not correctly given, of course, they may withdraw or may reform the document presented to the court, but while this document is in court, and the court in the name of the People of the State of Illinois is attempting to adjudicate the issues raised in this document, then I contend that the City Council should know that fact and should take it into consideration in determining its conduct at this time, so that we will not have any interference, as it were, between the legislative and the judicial branch of the government.

If I may be permitted, while I am on the floor, to attempt to more correctly and probably more intelligently express what I had in mind than I was able to the other day in view of the shortness of notice and in view of the further fact that I had other work awaiting me—I want, by way of recapitulation, to urge upon this committee the consideration of some propositions that I believe are sound both in morals and in law. I want to ask the chairman of this committee respectfully and this committee, if they feel the propositions I now announce have any merit to them, any weight in law, that they will present those propositions in concrete form, or I am willing for the committee and those who are in favor of this ordinance to give concrete answers, submit replies to these questions. First, Mr. Defrees said the other day that the City of Chicago was not concerned in the kind of bargain that was made as long as the city got something. Now that is entirely foreign to all human experience and to all business experience. The City of Chicago in its Council, as the trustees of the interests of the people of the City of Chicago, is interested in a moral bargain, and by moral bargain I mean that it is a duty charged under the law, fixed by the highest laws of morality—for this Council to get as trustees of the people's rights—to see that the City of Chicago does not part with things of valuable consideration unless the City of Chicago gets an approximate return in the way of value from the Illinois Central. I submit that as a fundamental principle, not that you have the legal right, but it is your duty to concern yourselves with whether or not the Illinois Central is giving to the City of Chicago and the people of the State of Illinois an approximate and adequate consideration for the valuable consideration it receives. Now with that in mind I want to ask one question. I want to ask it in as definite language as I can: Has any attorney representing the City of Chicago made an examination of the abstract of title to the proposed property that is the subject matter of discussion before your honorable body? If they have, then I insist that the public, not only this committee, are entitled to that information, with the

signature of the proper law officer of the City of Chicago attested, as being the opinion of the Corporation Counsel of the City of Chicago. If they have any such opinion, I want to ask some of the gentlemen who represent considerable wealth in this community and have a deserved prominence as prominent citizens, whether or not they ever bought a piece of property in which, or for which, they parted with a valuable consideration, that they did not first have an examination of the title to the property made? Is there a case in history, of the daily dealings between men, where an individual ever parted with millions of dollars, or with a paltry few thousands of dollars, before he first had an opinion of his lawyer certifying that the title was in the vendor, and a lawyer that gave an opinion without a proper examination of the title, if it were subsequently found that the vendor did not have a title to it, might be subject to disbarment or at least to a suit for the recovery of the damage that his client had sustained? I want, therefore, to know, has the City Council of the City of Chicago, as the representative of the people of the City of Chicago, an opinion as to the title of this property, and if they have, where is that opinion, and if they have not, I want some one to assume responsibility for the consummation of this transaction without the customary and usual opinion of title?

Now, gentlemen, I want to subdivide without a knowledge of the title—and I do not know what the title is, and this does not argue against the man who opposes this ordinance. It is not for me to show that the Illinois Central has any title; it is for those who favor this ordinance to show that the Illinois Central has title. The burden of proof must be on the people accepting the money.

This land logically divides itself, in point of legal application, into three kinds of land, and I want to try to be as definite and as brief and as succinct, in making my subdivisions, as possible, so as to carry to the lay members of this committee, at least, the thought in my mind. First, under Section 3 of the charter of so-called grant to the Illinois Central, the Illinois Central had a certain right of way. Now when they came into the City of Chicago and built that right of way on what was at that time, 1852, land or ground above the water, they had a kind of title to that land. I invite your attention to that kind of land, namely, land that, under the grant the Illinois Central built its right of way on, was not under water. Is there any question here that to such land the Illinois Central had nothing but the right of licensee? If there is, then the Supreme Court of the United States and the Supreme Court of the State of Illinois has recently held to the contrary unknown to some of us. My proposition is, as an incontrovertible legal fact, that

to such land as was land at the time they built the railroad, they merely had the right of licensee, and the law is plain and simple, not only in the few adjudicated cases that have been considered in this particular matter, but during its entire history, that two things are absolutely indispensable to a riparian right: one is the best kind of title known to the law, namely, fee simple title, and, second, contact with the water. Now, you see, if we had an opinion from the Corporation Counsel's office showing an examination of the various abstracts, we could at once say that so much of this land was land that in 1852 the Illinois Central took as a right of way, and it was not submerged land, and to that land legally we could say, in view of the fact that the courts held it took the land in the way of a licensee, it had no riparian right.

Now another division of the land: such land as was submerged at the time the Illinois Central built its right of way. It is my contention that submerged lands belong to the State, that the right of the State to part with submerged land I deny, and that the grant in Section 3 of its charter to the Illinois Central is a limitation and cannot be construed to be a grant to the Illinois Central of submerged land. It, therefore, follows, if I am correct, that such land as was built on, submerged land or land under water, by the Illinois Central Company for its right of way—it not only has no riparian right to that land, but the judgment of the Chipperfield Report is sustained by common sense and good law. It is a trespasser upon that land.

It remains to consider this one other kind of land, where it purchased the fee. I admit if they purchased the fee of the land, and that land had contact with the water they would, as Mr. Rosenthal pointed out the other day, have a right to the natural accretions and easement to the point of navigation, either by way of wharves or piers, or also sending something out to the point of navigation by excavation process, which would be the building of a harbor to bring that navigation to the land. To how much of this strip of land does the Illinois Central own the fee? Who will tell us, not in idle words, but in such a way that official responsibility would go with the statement, so that we will be properly and authoritatively advised? Even that land that it has riparian rights to, or had at one time, is the subject of further inquiry, because I contend, and this is sound morals and good law, that if my wrongful act is responsible for the loss of one of my rights, I cannot complain if I have surrendered something, forfeited something, or lost something because of my own wrongful act. So if the Illinois Central, having riparian rights to some of this property, filled in the land immediately in front of it, which is not the exercise of a riparian right, and raised it to the surface, the title to

that property never changed by the trespass of the Illinois Central, but the title being in the State as submerged land, it would now be in the State as actual land above the water. If the Illinois Central, by that aggression and that wrongful act and that trespass, had cut off its contact with the water, I assert it is better than good law, it is good morals, to conclude that the Illinois Central forfeited its riparian rights to that land.

Gentlemen, those are propositions that should be answered and should be answered with definiteness, for I contend it is, even from a financial point of view, no small proposition to part with the amount of land that is to be parted with here. In this particular I want to invite your attention to a matter that I think—and I do not mean by the use of the pronoun, I, that my opinions are worthy of any great consideration. I believe that if my opinions are true and, submitted to the common test to which men submit the truth, are not found to be wanting, they are worthy of the same consideration from this committee and this Council as though they had come from one of great merit or from one of larger financial possessions. The test here is the merit of argument, not the standing of the men who make the argument, and I do not mean to make that statement with any reflection on the gentlemen who may be in favor of this, but the issue I refer to is the issue that is purely moral in this matter. For my own self, as a simple unostentatious citizen of this city, I had the hardest blow to my patriotism and love of my State dealt me at the last session of this committee that I have ever experienced in the thirty-five years of my life. I was astonished, certainly surprised and startled, to find men who should be pioneers in support of the freedom of our public institutions from corruption, confessing on the floor of this room to this body that when the citizens knocked at the doors at Springfield and demanded only fair legislation, that this committee took something less, and the power of the Illinois Central lobby dominated the body politics in legislative character in the State of Illinois. I am unwilling to allow, sir, that a City Beautiful can ever be a beautiful city if you must get it at the price of sacrificing and abandoning your belief in the integrity of the people and their right to demand their legislation from their public servants. I believe it is more vital at this point that the Illinois Central should not dominate the Legislature of our State than that we should build a dozen Field Museums on the lake front. The concession you have made as prominent men, if consummated and carried out by this Council, is a splendid example to the young men who are growing up—the idea that we should accept this bargain, a bargain admittedly the price of the corrupt influence of one of the parties to the contract, in controlling the Legislature of our State. When I said the other

day—Mr. Butler, I do not know you and your smiles will not affect me one way or the other, or sarcasm either—

MR. BUTLER: I am not smiling, sir. I am too sad to smile, sir.

MR. COMERFORD: I want to tell you that I can agree with you in your sadness. Your confession was the confession of civic impotency as a citizen—to say that you came back from Springfield, Illinois, in reply to Mr. Hull's question, to say that Illinois would not respond in its legislative department to an honest, simple demand to give the South Park Board the right of condemnation in this matter, and then you said that you did not charge the members of the Legislature with being dishonest, but the influence of the Illinois Central might have had something to do with it. There are only two kinds of men, one kind is honest and the other is dishonest, and the man who in Springfield, Illinois, would refuse to give the Park Board the right of condemnation, and the man who voted for this statute, denying the right to the Park Board of condemnation, is either a knave or a fool, and the ultimate effect written in the law is the answer of his indictment; he cannot avoid it. Every railroad company has the right of condemnation except in regard to property owned by people who are unknown, but where it was known by whom the property was owned, the Park Board was without the power of condemnation. What does it mean, gentlemen? It simply means this, that the Illinois Central is saved the need of going into court and having the value of its alleged claims passed upon.

I want to invite your attention to a matter, that while not as germane as it might be, indicates that the conscience of the Legislature in some of its sober moments may be worthy of consideration. I want to invite your attention to the Session Laws of the last General Assembly, a bill passed and approved June 10, 1911, which refers to one department of this subject matter, and that is insofar as ordinances of the City Council of the City of Chicago might affect wharves and harbors. Mind you, gentlemen, this is the public policy of the Legislature of Illinois after the Chipperfield Report was passed. It says in Section 7 of the Session Laws:

"If in the construction of any harbor, wharf, canal, dock, pier, slip, levee or other harbor facility or improvement mentioned in this Act, it becomes necessary to affect any of the rights of riparian owners along any public waters, or to take any property belonging thereto, such city shall have the right to acquire same by condemnation, but nothing in this Act shall give any such city the right to give compensation to any alleged riparian owner who is not in fact the owner of said land or who has unlawfully acquired title thereto by possession or by making or filling the same, and such city shall make a careful scrutiny of the title of each and every person so claiming compensation, to the end that no person shall receive compensation for lands or rights which already belong to the State of Illinois."

Now, gentlemen, the Mayor of the City of Chicago, the other day, replying by characterization to some of the gentlemen who had raised an argument suggesting that there was an analogy between this fight and the fight involving the street car system of Chicago under the Allen law, said that these men, some of them, had not been in that fight. Perforce of youth and lack of ability, I will say, that my part in that fight was only the part of a young man, but I spoke on nearly every platform in Chicago for a period of six years, and to Mr. Harrison is due every credit for his work in the people's behalf. I want to suggest that the same moral principle is involved in this controversy that was in that one. In other words, Mayor Harrison contended: "We will not settle the street car question until we can settle it right; repeal the Allen law because if the grant be taken with corruption it will taint every subsequent act, it matters not how moral that act may be," and we say to you now that in view of the joker legislation of the Illinois Central conferring the right of condemnation, in view of the absence of an opinion of title, in view of the other facts that have been raised here, such as the gift of land that is approximately worth \$20,000,000—I would not quibble about that—I think a man that steals \$1,000,000 is a pretty good thief, and I think that a railroad company that takes \$1,000,000 worth of property, not because you want to give it to them, gentlemen, not because the Park Board wants to give it to them, but why? Because they have controlled the Legislature of the State of Illinois and have denied the Park Board the right to bring them into court, and then under our system of law determine what the equitable value of the land is.

I want to say, in conclusion, gentlemen, that I believe in a City Beautiful; that I believe in a park system; that I believe in a great endowment of the culture of the present and of the future like a Field Museum, and I believe in the disinterestedness and the perfect honesty of the men who favor this. I do not believe that a dishonest dollar has passed or will pass, but I believe, gentlemen, that you have a right today to do the very thing you started out to do here in less time, by going to the Legislature and demanding by a special session, condemnation, for let me tell you that the passage of this ordinance by this Council does not mean that the improvement is going through. When this contract comes up for confirmation in the courts, not one citizen, but dozens of citizens will file their appearance and force the Illinois Central to come forward and ascertain in a court of law what its alleged riparian rights consist of. Think of the mocking situation that this Council might be placed in if, after thrashing this out here in view of the questions raised, and without an opinion from the Law Department, in the face of the

Chipperfield Report, in the face of pending proceedings started by the Attorney General of your State, you should consent to this bargain and the courts should subsequently hold that the riparian rights were purely fiction and the bargain was immoral and against public policy. That is the position you are asked to be put in. Gentlemen, I insist that your position as conservators of the public interests will not allow you to make any such decision, at least in the dark, and I insist further that this issue should be broadened in the way that every man who is a part of this committee should interest himself to know all the facts connected with it. If Mr. Redfield has written an opinion as to this title, and I noticed when I left the hall the other day that Mr. Redfield said he had examined the title, I would like to see it, and when I say that, gentlemen, I do not mean to reflect upon the integrity or the character of Mr. Redfield. To ask a question surely does not imply the guilt of the man you question.

Think of a project over there on the lake front with fifty or more tracks, with more engines spitting grime and fume, a medley of noises, and your lake front park on the other side, and you tell us that the front yard of Chicago is to be beautified for the benefit of commerce. Who would venture across the viaduct at night except with an appointed guard of city aldermen or city police? Who would venture to send their children over there to enjoy the lake front? We must, if we see it at all, see it through Illinois Central smoke and Illinois Central grime. In this ordinance they said that some day, some day, maybe some day, when we do decide to electrify, you will build hoods, like eye blinders for the horses, running fifty feet high on each side so that the public will not see the smoke. When they do electrify we will not need the blinders, but until they do electrify we can have the blinders. Manifestly the Illinois Central Railroad Company in its generosity to the citizens of Chicago has awakened a civic impulse that becomes contagious in the minds of every man who is fond of a City Beautiful.

Gentlemen, I thank you for your consideration.

MR. EDWARD B. BUTLER: Mr. Chairman, I want to say a word in answer to Mr. Comerford. I am not rising here to defend myself or my act, but I want to say in defense of the Legislature of Illinois that in my visits to Springfield I found no man there whose motives I could question. I found no lobby of the Illinois Central or any other road. I will just say I am not going to answer the insinuations of this gentleman who has preceded me.

THE CHAIRMAN: Have you anything to say on the subject?

MR. BUTLER: I have something to say. Gentlemen of the committee, I have taken some of your time before, and I want

five minutes now if I may have it, to read something which I have prepared. I promise not to take as much time as the gentleman who preceded me, but I hope you will understand me.

(Mr. Butler then addressed the committee as follows:)

Have you ever been on Michigan Avenue opposite the Logan Monument on a hot summer's night? If so, you have seen the monument hill almost entirely covered by the people from the tenement districts, who had come out there with their children, to get a breath of fresh air.

Think, if you will, what the proposed island park will mean to such people. How many lives will it save in a single summer and how many summers can we afford to wait? How much are those lives worth?

If it is thought that Chicago is going to decide whether or not a good trade has been made between the South Park Board and the Illinois Central Railway Company on a dollars and cents basis, then we should be willing to put against those figures the value of the lives which are to be saved by furnishing two thousand acres of park on a great inland sea where men and women may go for a day's outing; where children may play and where infants may breathe health and strength.

I cannot believe that the few gentlemen who are opposing this plan have thought the thing through to a conclusion. I could understand it better if they offered a substitute proposition for giving back the lake shore to the people. Unfortunately, however, if I understand them right, they insist that because the trade has not been made just as they would have made it, there must be no trade at all, and they are willing that the people should wait from six to sixteen years before securing the right to build the parkways—and after that, after the location of the Field Museum at a central point has been lost to the city forever.

Those of us who are old enough to remember the World's Columbian Exposition—the beautiful White City—can never forget the thrill which we experienced in looking out upon the Court of Honor. If the present plan be carried out, one standing in Grant Park looking south will see as the central feature, the Field Museum, which, as generally conceded by all architects, will be one of the most beautiful buildings in the world. On a line with the museum and between Michigan Avenue and the tracks will be the Illinois Central Station, a monumental structure built to harmonize with the museum. On the same line will be artistic viaducts, one crossing the tracks of the Illinois Central; the other crossing the entrance to the lagoon. At the end of this Twelfth Street boulevard will be a round point pier.

When Grant Park has been laid out and beautified, will not



the view to the south be upon a court of honor—and one that shall exist for all time?

Of equal beauty and of great utility will be the parkways connecting Grant Park and Jackson Park. Under the agreement made between the Illinois Central Railway Company and the South Park Board it will be possible for the commissioners to carry out these park improvements practically as shown in Mr. Burnham's Chicago Plan. When this is done, the railroad will run just west of a park strip which will be made by filling in the lake, this park varying in width from 400 to 700 feet.

In addition to this park strip, and out in the lake from 300 to 600 feet, an island park will be built extending from Twelfth Street to Jackson Park. This island will be nearly five miles long and will average one-half mile in width. On it will be great meadows and recreation places. Between the outer and shore parks will be formed a lagoon of quiet water. The two parks will be connected by artistic bridges at every half mile, and the shores will be made beautiful with trees, shrubbery and plants. On the lake side of the island will be recreation piers and bathing beaches.

What is not generally known is that the shore at Twelfth Street is within one mile of the most congested district of the West Side; therefore as accessible to the West Side as to the South, especially when the Twelfth Street boulevard has become a fact. In short, the lake shore will be given back to the people.

The artistic value of the lagoon and the practical uses to which it will be put must be apparent to all. Imagine the picture that will be presented when this sheet of water is alive with pleasure boats or when upon occasions the banks are filled with hundreds of thousands of people who have come to witness a rowing regatta.

Chicago is endowed with two great natural advantages, a good summer climate and a great inland sea. With a mere fraction of the amount of money that has been expended in the improvement of any of the great European centers, we can and will make of Chicago the most inviting of all American cities. With a comparatively small outlay, Chicago can be made a delightful place of residence and at the same time be so attractive and inviting that it will become the Mecca of the traveling public.

This is the people's cause; it is for the poorest of the poor and the richest of the rich. When once the people understand it fully, they will not permit this great opportunity to be lost.

Mr. O'NEIL (representing the Chicago Federation of Labor): Mr. Chairman, are you going to follow along the list of speakers?

The CHAIRMAN: I have a new list. I will give you an opportunity to be heard. There are two speakers ahead of you.

Mr. O'NEIL: My reason for rising is to say that the Vice-President of the Chicago Federation of Labor would like to be heard.

The CHAIRMAN: If you will present his card, we shall give him an opportunity to be heard.

Ald. GEIGER: I think we are treating some of the gentlemen who want to be heard before the committee a little unfairly. We have permitted one speaker to speak more than once upon the question before the committee and others have been here who wanted to speak and have not had the opportunity. I think we ought to go ahead and give all of them an opportunity to be heard.

The CHAIRMAN: I expect to give every one an opportunity to be heard.

Ald. GEIGER: Those who want to re-hash we will hear from again.

The CHAIRMAN: I want to be absolutely fair.

Ald. LONG: I think Alderman Geiger's suggestion is a good one.

The CHAIRMAN: I want to be absolutely fair. If the speakers who have not been heard will present their cards I will see that they are called.

Ald. EMERSON: I would like to ask Mr. Comerford a question. I am looking for information. I expect to be called upon to vote upon this ordinance. If there is no objection I would like to ask Mr. Comerford a question.

Mr. COMERFORD: I have no objection. Of course I am subject to the parliamentary ruling of your chairman.

The CHAIRMAN: I will allow you to ask the question.

Ald. EMERSON: If I understand your meaning, Mr. Comerford, you said that the Illinois Central had no riparian rights. In your opinion, is there any reason why the South Park Board could not step in and build this park immediately without the legislation?

Mr. COMERFORD: I think the South Park Board could try it, and if the Illinois Central enjoined the South Park Board from going further, there could be an adjudication undoubtedly of this particular question.

Ald. EMERSON: It would not take very much longer to do that than to have the Council pass this ordinance.

Mr. COMERFORD: I do not think it would take as long, for I imagine that the proceedings would take many years if the taxpayers of the South Side once get into court.

Ald. EMERSON: Much obliged.

The CHAIRMAN: We will listen to George W. Underwood.

Mr. GEORGE W. UNDERWOOD: Mr. Chairman, I represent myself as a taxpayer and a resident of the City of Chicago for about forty years; on the South Side thirty-five years. I heard that Mr. Comerford was a good orator and I am satisfied from what he has said that it is evident he is. You have a sample of what you will have in this matter if it is thrown into the Legislature or if it is thrown into the courts for the purpose of condemning these riparian rights. I have been present at two or three days' proceedings and I have some idea of the attitude of those who are opposing this ordinance. The attitude of those who are opposing the ordinance seems to be that there should be some preliminary steps taken, first, by going to Springfield and then going into court, and it would be with just the same firmness and persistence and determination that the question would be met in the Illinois Legislature and in the courts, before the proposition would get as far along as it is now. Public sentiment will carry through many things and I agree with Mr. Rosenthal that public sentiment would eventually force the Legislature of the State of Illinois to grant this right, but you gentlemen in this room are fully conscious of these proceedings, but there are thousands of people in the City of Chicago and I will venture to say several members of the Legislature who do not know and do not care about matters that are now being heard in this room, and they would have to be converted and that by strenuous efforts. It seems to me that the solution of this question depends very largely on the viewpoint which is taken and that a correct viewpoint will lead logically to a correct solution. I have heard with some disappointment the disposition to place the corporation—the Illinois Central Railroad—on trial in this matter, and raise all kinds and sorts of questions which would tend to throw the prejudice in the minds of the members of the Council and of this committee into this question. A harmonious solution will be reached by a careful consideration of the interests at stake. The Park Board, the City of Chicago and the citizens of the State of Illinois, the interests of all of those are identical, and I venture to say that the interests of the Illinois Central Railroad, with one exception, are identical also in this matter. I mean to say that in the final end of it in one respect, the interests are not identical, and that is, in the esthetic of the situation. The Illinois Central Railroad proposes to run a railroad there and use these tracks for cars and engines. To that extent, due to the output of machinery and the appearance of the cars, the esthetic appearance of that park would not be consistent with other things—the park and residences along that line; but, gentlemen, this is not a question of placing the Illinois Central there. The Illinois Central is there already and has been there even before the land was there out

in Grant Park, when it ran on piles in the water. Therefore, as to the esthetic, it is merely a question of extending the right of way from 200 feet in width to the dimensions asked for, and as Mr. Joseph DeFrees, as President of the Bar Association of the City of Chicago, said to you gentlemen at the last hearing, the police power of the State of Illinois will give to the city the right to regulate upon that right of way the noise and the smoke, which was elaborated upon by Mr. Comerford. Citizens in the manufacturing business know that when mechanics have arrived at a stage of perfection so that past conditions are out of date, railroad companies and others must put in machinery that is up to date, and when conditions are such that the Illinois Central right of way is conducted in a manner that is out of date, or inconsistent with the welfare of the public, then the police power of the city can rise in its power and insist on changes being made. That has been conceded by the courts and by attorneys of the highest standing, and millions of dollars have been expended upon the elevation of tracks, and I deem it is unnecessary to discuss this point further.

It has been my observation that when men pass the age of forty or forty-five they recognize the value of harmony in disposing of differences. They deliberate and get together. They would rather get together and discuss and settle matters than to go to legislatures for laws.

Do not for a moment imagine that I bear any commission from the Illinois Central or any other corporation. I have lived in this town when it was called the "Hog Road," and people were compelled to go through those turnstiles, but I am happy to say that I have lived above that spirit of prejudice when a great public ordinance like this comes up before the public for consideration.

Now let us see: Chicago is located down here at the south end of the lake. What built Chicago? I say if there is any one thing that built Chicago it is the railroad. I do not mean to say that the railroads did it as the Hand of God, but they were the instrument, the common carriers that brought the passengers and freight to this center and landed it here for re-shipment again, and built this great city just like our street car companies are building on one quarter section lines and cross-town lines so that real estate is assessed at four and six times what it used to be—\$250.00 a front foot at Thirty-ninth and Cottage Grove Avenue. Why? Because it is a transfer point. Now the railroads are making Chicago and if you give them a chance they will continue to make Chicago. Do we stand here today and say because it was once called the "Hog Road" we will limit them to 200 feet, shall we say that they shall have that much and no more? They have lines of cars there. It would

make slight difference to the police power whether they have four or six hundred feet. It has been suggested that we are in a state of wonderful development. These states do not come year after year; they come once in twenty or thirty years. We are now in the midst of one. Twelfth Street is to be opened to the West Side. To send this proposition to Springfield, it seems to me, would cause the other propositions to get cold. As Mr. Butler has said, the building of this great depot at Twelfth Street and Michigan Avenue is of itself a big thing. The advance in real estate has already been heralded, some say \$20,000 a foot on Michigan Avenue and Twelfth Street. You say, What advantage is that? If land in Chicago is worth \$20,000 a front foot, gentlemen, the city would get its taxes out of that. Is not the land of Chicago enhanced in value by this improved transportation? Therefore the public immediately gets back its value.

It may be said that we may go to Springfield by Monday and have a special meeting of the Legislature, and we may get this power and we may go back and start a condemnation proceeding to condemn the site for the Field Columbian Museum out there, by the last day of March or some time in March. If that can be done, that would be the most rapid lawsuit that ever was heard of, to do that inside of that number of days, but suppose you can, suppose that can be done, the Field Columbian Museum would be outside of the present Illinois Central—you have still the Illinois Central between the Field Museum and Michigan Avenue. That one thing alone would be sufficient to mar the whole plan. Suppose all this is accomplished and you have your legislation and your condemnation proceedings, you still have difficulties in the way.

Now there are a couple of more points I want to mention. The boulevard traffic is greatly congested on the South Side. I live near Thirty-third and South Park Avenue where the automobiles as they come north from Grand Boulevard make a sharp turn and go west to Michigan Avenue. The neighbors in that vicinity are at night startled with the screams and shouts of people making that sudden turn. One of the greatest benefits that could be assured to the South Side in transportation matters would be the extension of Grand Boulevard north to Twenty-second—to the southeast corner of Grant Park. It is absolutely needed. It is absolutely needed to relieve the congestion there is over on Michigan Avenue.

Another thing, when this is started—when this work can be commenced, there will be any amount of work for men who need work to fill in that land. Thousands of men will be employed to fill the lake front.

I close by making the suggestion that it seems to me the

time has gone by for fighting railroad companies simply because they are railroad companies, but to consider that railroad companies are common carriers, are quasi-public corporations organized to give the power that they have for public purposes, and with the growth and development of railroad companies comes the development of our great city. I thank you.

The CHAIRMAN: We will now listen to Mr. Wallace Heckman.

Mr. WALLACE HECKMAN: Mr. Chairman, just a word. I want to say that I appear before you simply as a citizen, one of a large body of citizens who has never held any official position, but who has endeavored to take an active part to see that things have gone as well in his neighborhood as he could help them to go.

Now in this I should like to say one or two things to clear away the underbrush. To myself, talking about square feet and measurements of values in that direction seems to me to be getting away from the heart of the matter. This is a lot of water at the present time, the appearance of a back yard. That comes with the railroad there, and if you add to it, your body has the power in addition to giving it to them, to compel the road to abate its smoke nuisance. You have the right now, you are not releasing it. The road is there, the difference is that you will add to it slightly. It seems to me the fault is not vital. What is vital, it seems to me, is to get started in this direction. Now let us see what has been done. We have had in this work the assistance of men such as Mr. Butler and Mr. Hutchinson and men of that character, for a long period of time. If either one of you gentlemen or if I were represented by them in making a bargain, we would think that we were intelligently represented. There may have been other men who could have made a better bargain, but this was a bargain, was it not? The Illinois Central Railway has its rights and it has its friends. We recognize it has its legal rights, and the main point I want to impress upon you is along this line—the situation at Springfield and the proposed new legislation. I happened to have been at Springfield several times on public matters and in private matters before various legislators. I want to say that we may as well look at it in the face, gentlemen. If you have not already had experience there you will soon know that we in the city are better informed of our conditions and interests than people in the state at large. They have their own interests. We are not a large fraction in that Legislature and they necessarily have their own things which interest them. It is not an easy thing to get them to take up a private thing of our own and push it through for our benefit. I am not scolding about it; it is a fact that the Illinois Central Railroad Company has many friends

in the Legislature. It commences at the north end of the State and it extends to the south end of the State and it ramifies the State cross-ways. In many towns where that road runs, it has friends. It has helped some towns. It is not wholly bad. They regard it as their road to a certain extent. Not only have they many employees of the road who are interested in the road, but many of the attorneys in these various towns are employed by the road. It is a fact, in other words, that the road has friends in the Legislature plus men who are indifferent throughout the State. It will be no easy thing to get a piece of legislation through of this sort. You who have not been there will find that you have to arouse a public sentiment. You are only entering upon a long program. Now what is the position we now hold? It is that you have made a bargain with men who had the right to bargain and to most of us it seems to be a bargain, as good a bargain as could have been made under the circumstances. It is at least the thing that can be done now, while the other thing will extend for twenty or twenty-five years into the future, and this thing can make of Chicago now while we in this room are living, a start upon a plan which will make Chicago something unique. The effect of this improvement will go over the State and into all the interior towns, and the residents of those towns will come in to Chicago to spend their vacations and their money, especially if they know that they can spend it in some beautiful place. It is our fault if it is not done, for you have this opportunity of making it a beautiful place with a park in front extending to the Midway. No city in the world will have such a grand front as the City of Chicago, such a water front, and park and water. Now that is a value that to my thinking the few square feet of water in the backyard of the Illinois Central Company does not bother us to figure closely. Let us keep at the main issue. I have not heard it contended that any man in this room could have made a better bargain.

The CHAIRMAN: We will now listen to Mr. Nelson, Vice-President of the Chicago Federation of Labor.

Mr. NELSON: Mr. Chairman and gentlemen of the committee, I have been delegated by the executive committee of the Chicago Federation of Labor to appear here this afternoon and make this statement, that the Chicago Federation of Labor only had its attention called to this proposed proposition, or the ordinance now before you for consideration, within the past week or ten days, and the Chicago Federation of Labor as a body has delegated its executive committee to study this ordinance and to make some kind of an investigation. Organized labor, representing labor which is organized, but which indirectly represents the mass of workmen in the entire city, are intensely interested in the proposition involved in this ordinance,

and we want to state that we have not had sufficient time to read the ordinance and make a close study of it and we would ask your committee to give us a hearing a little later on, and we trust that you will not take hasty action until we as the representatives of the working people have had a chance to give this matter close study and come before you with our expression of opinion. We are interested along the line as outlined by Mr. Comerford as to whether this ordinance is going to legalize certain rights that the Illinois Central now claims. We are interested, probably more than the representatives of the South Park Commission, in the poorest of the poor people who live within a mile of this lake front, and we are just as anxious to get additional park space and breathing space, and appreciate the saving of their lives, as much as any public representative of the City Council or any of the South Park Commission. We know something of the Illinois Central's manipulations in some of the Legislatures. We have had our representatives at Springfield and we can attest the statement made before this committee this afternoon and at previous meetings, that the Illinois Central has been represented by a strong and powerful lobby in Springfield at the last session, and not only at the last session, but at all the sessions. We have been interested in legislation since we became intelligent enough to take an interest as to what our representatives in the State Legislature and City Council were doing in the way of protecting our interests. We trust you gentlemen will not report this matter to the City Council and take action until such time as the Chicago Federation of Labor has had a chance to thoroughly study this proposed ordinance and digest the proposition involved.

I want to say personally, as a representative of the Chicago Federation of Labor, that I trust this committee will have the proceedings held before this committee printed, and a sufficient number of copies printed, so as to furnish bodies like the Chicago Federation of Labor, and all other civic bodies who may be interested, a copy of the proceedings and the testimony submitted to this committee, so that we may have an opportunity to give an intelligent study to this question. That is all I can say at this time in behalf of the Chicago Federation of Labor.

The CHAIRMAN: We will now listen to Mr. Harry Goldstine, representing the Chicago Real Estate Board.

Mr. HARRY GOLDSTINE: Mr. Chairman, I have here a report submitted by this committee to the Chicago Real Estate Board at its meeting today, which report was adopted and which I will read.

(Mr. Goldstine read the following:)



*Gentlemen of the Chicago Real Estate Board:*

Your committee appointed by your president to investigate the contract between the Illinois Central Railroad Company, the City of Chicago and the South Park Commissioners beg leave to report that we have made an exhaustive investigation into all the details and points covered by this contract.

As members of the Chicago Real Estate Board, representing many and diverse real estate interests all over the City of Chicago, we feel that we are qualified to judge, not only of the values of real estate in this particular transaction, but also of the benefits that will accrue to real estate in the entire City of Chicago, through the consummation of the proposed transaction.

As real estate men, familiar with negotiations, we realize especially that each party to a transaction expects to reap benefits therefrom. As to the charge that undue secrecy prevailed in the negotiation of the transaction referred to, we beg to state that the charge appears to your committee as ridiculous in the extreme. In the negotiation of any large transaction we know the absolute necessity for secrecy. You cannot "hunt ducks with a brass band."

Our investigation developed the following as the benefits received by both sides of the aforesaid transaction:

## RAILROAD BENEFITS.

1. An enlarged right of way consisting of 108 acres of land entirely under water, between the breakwater and the proposed boundary line, and west of the breakwater an additional 12 acres, which is also under water, and whatever rights the city has to the 42 acres of made land now in litigation between the State and the railroad company.
2. Vacated streets and alleys comprising about 20,000 square feet of land.

## BENEFITS TO THE PEOPLE OF CHICAGO.

1. The acquisition from the railroad company of its shore rights, being 92 per cent. of the entire rights lying between Twelfth Street and Fifty-first Street, the acquisition of which rights based on surveys and soundings already made, make possible the creation of a park of over 1,500 acres, with provisions for bathing beaches, recreation piers, boating, etc.
2. The acquisition from the railroad company of the present location of the Illinois Central depot at Park Row and Twelfth Street, and the agreement on the part of the railroad company to build a new and magnificent station at Michigan Boulevard and Twelfth Street, of classic design, and to comport with the character of the Field Museum.
3. The acquisition by the City of Chicago of 8½ acres of made land between Twelfth Street and Thirteenth Street east of the present railroad right of way.
4. The acquisition by the City of Chicago of 85 feet off the south side of Twelfth Street between Michigan Avenue and the right of way of the railroad, for the purpose of making Twelfth Street a widened roadway.
5. The right of the city of extending Twelfth Street widened from Michigan Boulevard over the right of way of the railroad company to the before-mentioned 8½ acres and making direct connection to the lake itself.
6. The right of the South Park Commissioners to locate the Field Columbian Museum at Twelfth Street and the lake.
7. The right of the City of Chicago to establish an outer harbor between Sixteenth and Twenty-second Streets with two connecting approaches over the railroad right of way.
8. The right of the city to provide for the connection of the Belt Railroad on Fortieth Street with the proposed outer harbor.
9. The right to the city to establish crossings over the enlarged right of way of the railroad company between Twelfth Street and Fifty-first Street, namely, four crossings in each mile.

10. The right of the City of Chicago to extend all east and west existing streets between Monroe Street and Twelfth Street over the right of way of the railroad company.

11. The right to place canopies fifty feet in width on each side of the railroad right of way extending from Monroe to Twelfth Streets on both sides of the said right of way, and from Monroe to Randolph Street on the west side thereof.

The Valuation Committee of your Board has furnished to this committee its estimate of the value of all lands in question, which is as follows:

The properties and rights submitted to us, assuming that the area covered is all filled land, as follows:

LYING BETWEEN THIRTEENTH AND TWENTY-FIFTH STREETS, TO BE ACQUIRED BY THE ILLINOIS CENTRAL R. R.

Values—assuming the land is made and street improvements completed:

Thirteenth to Twenty-fifth Street, 2,522,890 sq. ft., at \$2 per sq. ft. ....	\$5,045,780.00
Twenty-sixth to Thirty-sixth Street, 812,852 sq. ft., at 80 cents per sq. ft. ....	650,281.60
Thirty-sixth to Thirty-ninth Street, City Pumping Station.	
Thirty-ninth to Fifty-first Street, 937,400 sq. ft., at 80 cents per sq. ft. ....	749,920.00
42 acres made land west of breakwater, in litigation, 1,829,520 sq. ft., at \$1 per sq. ft. ....	1,829,520.00
12 acres submerged land west of breakwater. ....	522,720.00
Total .....	\$8,798,221.60

VALUES TO BE ACQUIRED BY THE PUBLIC.

Depot site and 85 feet southwest corner Michigan Boulevard and Twelfth Street east to the right of way of Illinois Central Railroad .....	\$2,000,000.00
8¼ acres at Twelfth Street and Lake Michigan, 366,875 sq. ft., at \$5 .....	1,834,375.00
3 acres south of Thirty-ninth Street, bathing beach, 130,680 sq. ft. ....	104,544.00
Total .....	\$3,938,919.00
Total value to be acquired by the Illinois Central. ....	\$8,798,221.60
Total value to be acquired by the public. ....	3,938,919.00
	<hr/>
	\$4,859,302.60

SUPPLEMENTARY.

In this report we have not taken into consideration nor placed any value on the 1,550 acres of submerged lands that the public acquired for its use, which, if valued on the basis of the lowest price placed on the land acquired by the Illinois Central Railroad Company, will amount to over \$54,000,000.

Neither have we taken into consideration the value of the buildings and improvements on the Twelfth Street properties to be acquired from the Illinois Central Railroad Company, which would have to be paid for, if condemned.

## THE CHICAGO REAL ESTATE BOARD.

Incorporated A. D. 1883.

CHICAGO, January 29, 1912.

*Special Committee of the Chicago Real Estate Board to investigate the Illinois Central R. R. and South Park Commissioners' contract.*

We, the undersigned, members of the Valuation Committee of the Chicago Real Estate Board, have carefully considered the application made by you for a valuation on the following described property:

As per schedule hereto attached.

We hereby certify that we have personally examined said premises, and that we have no personal interest in the property valued herein, and in our opinion said land is worth, exclusive of improvements..... \$.....

Value of improvements..... \$.....

Total valuation ..... \$.....

## VALUATION COMMITTEE OF THE CHICAGO REAL ESTATE BOARD.

FREDERICK S. OLIVER,  
*President.*

RAYMOND E. HERMAN,  
*Secretary.*

By MARVIN A. FARR,  
CALLISTUS S. ENNIS,  
WM. H. BABCOCK,  
WILLIAM D. KERFOOT,  
WILLIAM D. McKEY,  
HARRY GOLDSTINE,  
*Members.*

[SEAL.]

The aforesaid report of the Valuation Committee is in our judgment a complete answer to those who charge that in dollars and cents the railroad company is the beneficiary in the transaction to the extent of over \$17,000,000.

Whereas, we realize that the Illinois Central Railroad is receiving certain benefits under the terms of the aforesaid contract, nevertheless, the benefits accruing to the citizens in every section of the City of Chicago are so overwhelmingly greater—impossible, in fact, to estimate—that your committee urges this Board to recommend to the City Council the immediate passage of the revised ordinance now under consideration by the City Council, which ordinance ratifies and confirms the contract between the South Park Commissioners and the Illinois Central Railroad.

In conclusion, your committee feels so strongly that the consummation of the aforesaid contract will be the laying of the corner stone in the great conception known as the Chicago Plan, and an encouragement to those public-spirited men who have given so amply of their time and money to the perfection of said plan, that we think your board, by making the aforesaid recommendation, will be doing a public service of the greatest possible magnitude.

W. D. KERFOOT, *Chairman.*  
GEO. L. WARNER,  
ALBERT H. WETTEN,  
HARRY GOLDSTINE,  
ROY B. TABOR,  
E. ORRIS HART.

Continuing, Mr. Goldstine said:

This committee on Chicago Real Estate Board is here today, not as a standing committee, which among its own membership has taken up this question, but as a special committee

appointed by the president, at the unanimous request at a well attended meeting held Thursday, January 25th, and further than that, after the deliberations of this committee for two days, at a special meeting of the Board held today, this committee was authorized to present its views as the sentiment of the Chicago Real Estate Board.

The first question to be considered by this committee from the real estate point of view is: What do the city and the Park Commissioners get, and from whom, and what do they give in return? As we understand it, the municipality gets  $8\frac{1}{2}$  acres at the point of Thirteenth Street, a string 85 feet in width on the south side of Twelfth Street from Michigan Avenue east to the present Illinois Central right of way, the land now occupied by the Illinois Central east of Michigan Avenue and between Park Row and Twelfth Street. What are the values of the land in question? Assuming that the values of land for railroad purposes, given by the objectors at \$5 per foot, is correct, then this 42 acres should be figured at this rate, assuming that the title is clear and that there are no adverse claims. But in this claim the title is in question, and it is not used for railroad purposes. Who can tell its value with such a lien against it? In order, however, to arrive at a basis for figuring, let us take this 42 acres containing 1,829,520 square feet, and by reason of the contrary claim say it is worth \$5 per square foot. It would give a value of about \$5,488,560. We will now take the 108 acres about which there seems to be such a great disagreement of opinion. The objectors claim an average value of \$5 per square foot based on railroad values, contending that the present right of way of road has such a value, or even greater value. What is this based on? The naked value of the land under the right of way, or is it the land in connection with its use by a great railroad company and as an integral part of a great system? The best test of the value of land alongside a railroad without the knowledge of its use by a railroad company, is that at which it can be bought in the open market. Let us assume that this entire proceeding was unheard of and the Illinois Central road went out and bought an additional right of way. What would it cost? Only so much as you could buy the property for its present highest and best use. Take this 108 acres at their valuation and it would mean about 5,200,000 square feet at \$3 per foot or \$16,000,000, which means practically \$150,000 per acre. An acre of land contains  $9\frac{2}{5}$  average city lots 25 by 125, and if you will stop to figure this, you will find that the average price of a 25-foot lot on this basis in the district from Twelfth to Fifty-first Streets for its present and highest and best use, is \$16,000, or \$650 per front foot. The land in question can have no value

as a railroad property until it is used for railroad purposes, and then in connection with a complete system, and no layman or real estate man can estimate this value, and an experienced railroad man only can estimate this, as the greater part of its value lies in the good will and franchise of the railroad and not in the naked value of the land.

And now what is the actual value of the 108 acres of land if it were all made land, and streets laid out, pavements, sidewalks and underground work all in, actual value for commercial, residence or other real estate purposes? We report these values. The land, as before stated, from the open market, all made and filled, streets paved, sidewalks in, sewers and water and all complete. But what have we instead? This 108 acres of land all submerged, which must be filled in by the railroad company at its own expense, who will gainsay the statement that it will cost nearly, if not as much, to fill it in as it will be worth when made?

Now as to the other suggestions by objectors. It has been said that a special session of the Legislature can be called, and that the Governor would be willing to call it. Does any one here believe that, even if the Governor did call a special session, for a question interesting and applying only to Chicago, that the country members will convene and that a quorum can be gathered? We believe not, and from past experience it can hardly be controverted that such a question would prevail. It has again been suggested that the city force the railroad company to depress its tracks in the same manner as the railroad was forced to elevate its tracks. Is this latter a fact? From investigation we believe you will find that every ordinance for the elevation of tracks in Chicago is a contract ordinance, and while it may be possible to force it to do so, we believe such legislation would be fought determinately, and who knows when it would be realized?

It is also suggested that the rights here desired might be acquired by condemnation, and citing the fact that the Chicago & Northwestern Railroad Company took but little time to acquire its depot site. A railroad company can surely, as stated, condemn, and in case of appeal take possession of the property after a trial in the lower courts, by paying over a sufficient amount of money to protect the property owner, and it has the money, but can a municipality do this? We should say no, and why? Because a municipality must pay the award by its issuance of bonds, and who will buy bonds, or where will a municipality sell bonds, until a final adjudication of the question at issue? Even take the Chicago & Northwestern referred to; after getting a judgment in the lower court, it found it expedient to settle with all the property owners at greatly in-

creased figures over the verdicts, to avoid appeal and get immediate possession of the property. Again, when the City of Chicago condemned West Randolph Street from Halsted to Sangamon Streets, only three blocks, it took seven or eight years of consistent and insistent hard work to bring it to a final conclusion.

With reference to the bugaboo of smoke, noise, etc., we know that whatever rights the city has to compel the abatement of these so-called nuisances, it will still have that right, and whether the right of way is 200 feet wide or 600 feet wide, it is up to the city and the evolution of the times to remedy this so-called evil, and don't forget that the growth and development of Chicago is in a large measure due to the smoke and noise of the railroads of this city, and were it not for these railroads Chicago might not be in the forefront of American cities. We believe as science advances that the railroads themselves, without any solicitation or compulsion, will gladly overcome this supposed nightmare.

It is contended that the railroad company will get such tremendous benefits from this undertaking without cost to it, and from whom? Does it ever occur to the public-spirited citizens to single out the many individual property owners who many times realize great benefits from public improvements and ask them to pay the extreme of such benefits into the public treasury? We do not think so, and can see no reason why a railroad company in this respect is any different from you or any other private property owner.

And now to the final and most important component part of this whole scheme—the location of the Field Columbian Museum on the lake front at Twelfth Street. Without reference to a single foot of land to be acquired by the municipality, without reference to the many other beautiful plans involved in this undertaking, without reference to the removal of the Illinois Central Station to south of Twelfth Street, and the effect it will have on other railroads and their location in this zone—yes, without all these many things, we believe that the location of the grand institution of learning and interest in the very heart almost of this great city will be of greater benefit than all the benefits to be gained by the railroad company. In fact, the gain to the railroad company can be measured in dollars and cents, but not so with reference to the city and its vast numbers of people.

With the beginning of this year the Chicago Real Estate Board has re-adopted the great "I will" spirit of Chicago, and with this motto before it, hopes that the shortsightedness of a few objectors will not prevail. Let us keep on going, pushing, helping, and trust that the unselfish motives of the Chicago Plan Commission, the city administration, the public-spirited

citizens who are giving their best time and thought, be crystallized in the successful conclusion of this great undertaking, which is only a forerunner of many more good and beautiful plans in store for beautiful Chicago.

Mr. COMERFORD: Can I ask a question, Mr. Goldstine? You spoke of considerations passed to the people from the Illinois Central, and you mention under twelve different distinct considerations or departments. Have you or your committee a legal opinion as to whether or not the Illinois Central Railroad Company has any shore rights?

Mr. GOLDSTINE: We have had the opinion—a legal opinion, so far as matters have gone up to this time, that the Illinois Central has, but as to the absolute right of the Illinois Central I cannot say, but we assume that it has.

Mr. COMERFORD: Did your committee ever have an examination made of the abstract?

Mr. GOLDSTINE: I am informed that the Chicago Title and Trust Company reports that the Illinois Central has a good title in the riparian rights on the lake shore. That, in a measure, covers your question.

Mr. COMERFORD: Has your committee filed that opinion?

Mr. GOLDSTINE: No, it has not.

Mr. COMERFORD: You don't know who examined it?

Mr. GOLDSTINE: No, sir.

Mr. COMERFORD: I would ask that you file it with this committee—the opinion that the Illinois Central has shore rights.

Mr. GOLDSTINE: I am informed we can get that opinion on the title and furnish it to the committee.

Mr. COMERFORD: Is that based upon some interests acquired by purchase?

Mr. GOLDSTINE: I do not know what the basis is. I am informed that such an opinion exists and that the opinion is available to this committee.

The CHAIRMAN: You will get the opinion in?

Mr. GOLDSTINE: Yes, sir.

Mr. COMERFORD: Do you not know as a matter of law that ten of the twelve considerations you itemize have passed from the Illinois Central to the people and are at present the right of the people?

Mr. GOLDSTINE: If you will give me each question, I will endeavor to report to you on them.

Mr. COMERFORD: Will your committee file with the Council Committee the opinion so it will be accessible to the bar, the legal reasons upon which you predicate or enumerate twelve considerations passed to the people?

Mr. GOLDSTINE: I can only answer that by saying that the committee did not predicate it upon legal reasons, but based it

upon their own best judgment as real estate men who know conditions in the City of Chicago. We have not gone into the legal phase of this proposition.

Mr. COMERFORD: The proposition of a man giving something to some one else is always a legal proposition to determine whether or not he has anything to give. In other words, the question of title is paramount and determines the gift.

Mr. GOLDSTINE: I can only say in reference to that, the point which has been discussed here, that the railroad company has been getting some things and the city has been getting certain things, and we try to offset one against the other and try to show the gentlemen of this committee that we, as a committee of the Real Estate Board, who handle property in all parts of Chicago, endeavor to show that the valuation placed by some people of \$21,000,000 over and above what the city gets is ridiculous. As to the legal phases of it, we know nothing about it. If the contention here is a legal one, that is a contention between the lawyers representing the city and the Park Board and the railroad company and yourselves.

Mr. LESSING ROSENTHAL: May I be permitted to ask this question, in order that there may be no misunderstanding, and seeking to assist the committee? Mr. Goldstine, do you assume in making your valuation that the title to the submerged lands is in the people?

Mr. GOLDSTINE: You mean the 108 acres?

Mr. ROSENTHAL: Yes, sir, as well as the 1,500 acres.

Mr. GOLDSTINE: I do not know where the title is. We have been informed that the Illinois Central has 108 acres of land and we are assuming that the title is good in the party that gives it to the city or gives it to the railroad company—what that land would be worth under the conditions that we set forth.

Mr. ROSENTHAL: Well, then, have you not the right to take into consideration in fixing the valuation of this 108 acres, or the total sum of 160 acres, because I understand there are 120 acres of land that is submerged, and 142 acres that is made—did you take into consideration the best uses which that land can be put to? Don't you real estate men constantly testify to that?

Mr. GOLDSTINE: That it be used for the best use it can be put to under the ordinary conditions in the market. Do you ask the question for the purpose of getting an answer, Mr. Rosenthal?

Mr. ROSENTHAL: I thought you had finished.

Mr. GOLDSTINE: We value the land as we find it. It may be alongside of a railroad company and may be available for factories and residences or other purposes. We do not assume that it is available for railroad purposes in the sense of rail-



road property until such time as we know the railroad company wants it or is bound to use it. I will say personally that no member of our committee, and I do not know of any member of the Real Estate Board, who would be willing to set a value on real estate land. We will set the value upon the land for the purpose it can be sold for in the open market at the market price. We do not think there is such a thing as market price for railroad land, depending entirely upon the railroad, its system, and all the things that go with it.

Mr. ROSENTHAL: Assuming they trade that 160 acres of land so to be used for railroad purposes, as it is quite likely to be, because they are immediately adjacent to the Illinois Central Railroad, their right of way, and are intending to give to the Illinois Central a right of way, what valuation do you place upon this 160 acres of land for railroad purposes?

Mr. GOLDSTINE: At the time the railroad takes it and uses it for railroad purposes?

Mr. ROSENTHAL: Yes, sir.

Mr. GOLDSTINE: I would not attempt to make a valuation for railroad purposes. If I had clients who knew that a railroad company wanted to buy it, I would value that land for its highest and best use, such as it might be, and give you that valuation, but after becoming railroad property and used for railroad purposes, I cannot give you that value.

Mr. ROSENTHAL: Mr. Goldstine, assuming that you are the City of Chicago and had these 160 acres of land, and had the power to lease them for railroad purposes, because they are immediately adjacent to the right of way, what valuation would you place upon the 160 acres?

Mr. GOLDSTINE: I would place the valuation on the land, if I were asked to put a valuation on it; as a member of the Real Estate Board, I would entirely ignore the services for which it was going to be used, but give the land a value as I knew it to be worth, situated as it was.

Mr. ROSENTHAL: I just want to ask you a few other questions. The next thing is this, this right of way, have you made any valuation of the Illinois Central right of way from Twelfth Street to Fifty-first Street as a railroad right of way?

Mr. GOLDSTINE: We have not.

Mr. ROSENTHAL: Then let me ask you another question. In fixing the valuation, have you taken into consideration the revenues which the railroad company derives from leases?

Mr. GOLDSTINE: Not knowing the revenues I could not make a calculation.

Mr. ROSENTHAL: The Real Estate Board have made no valuation of that?

Mr. GOLDSTINE: No, sir.

Mr. ROSENTHAL: You say the difference in favor of the Illinois Central Railroad, according to the figures you have given, on these conservative valuations you have stated, would be approximately \$5,000,000?

Mr. GOLDSTINE: You misunderstood the facts.

Mr. ROSENTHAL: Four million and some dollars?

Mr. GOLDSTINE: I think you misunderstood them.

Mr. ROSENTHAL: Give them to me.

Mr. GOLDSTINE: I said the values were conservative and not liberal. I stated that the valuations as placed by this committee were liberal valuations; that the net credit to the Illinois Central was something over \$4,000,000, and that was based—\$4,800,000, and that was based—you will find we stated that that was based on the value of the 108 acres after it was made and laid out into streets and blocks, streets paved and all the other conditions that go to make city streets and city property, and that if the land was not figured at that value that the result would have been entirely different. I want to be fair to the committee to show them how we arrive at these figures. As far as the Real Estate Board is concerned, the value of the land does not concern them.

Mr. ROSENTHAL: Have you taken into account that the \$4,800,000 is more than the proposed price of the Field Columbian Museum—if it is a fact that the Illinois Central has forfeited its riparian rights to a great deal of this property, and there were no riparian rights at all, and that for this \$4,800,000 the Park Board of the City of Chicago could construct as beautiful a building as the proposed Field Museum built opposite Twelfth Street?

Mr. GOLDSTINE: That is a legal question involving the rights of the different parties.

Mr. ROSENTHAL: It is a question of money value.

Mr. BUTLER: What the building would cost alone?

Mr. ROSENTHAL: Yes.

Mr. BUTLER: How about the site too?

Mr. ROSENTHAL: The site we would get anyway. If we had the right to build, we would get the site. I wanted to know if your Real Estate Board had taken that into account.

Mr. GOLDSTINE: No, sir; we have taken the facts as brought out in this committee.

Ald. LONG: Mr. Chairman, while I do not regard this question of valuation as particularly important, I would like to ask one question that will probably throw some light upon the matter for the benefit of the committee. Mr. Goldstine, do you consider the valuation of land per square foot adjacent to the Illinois Central on the west side of the right of way, any more

valuable or any less valuable than similarly located land on the east side of the right of way?

Mr. GOLDSTINE: Assuming that there were improvements on the east side as well as the west, if anything, the land on the west side would be a little more valuable on account of accessibility. You would not have to cross the tracks if it was used for commercial purposes.

Ald. LONG: I would like to ask Mr. Rosenthal the same question.

Mr. ROSENTHAL: You have to take into account that much of that land on the west side of the right of way is already damaged by being immediately adjacent to the Illinois Central right of way. For railroad purposes it has much greater value than it has for its present purposes. Some of it is residence property and some of it is factory property, but has no connection with the Illinois Central; for this one purpose it is worth less than the Illinois Central right of way. If you had a strip of land, to my notion, immediately east and adjacent to the right of way of the Illinois Central Railroad, using that for railroad purposes, that land is worth more for railroad purposes than the land west of the right of way, and the present lot value of the land immediately west of the right of way is not what it would be worth for railroad purposes. My notion is it would be worth more for railroad purposes than it is for its present use, and the fact that it cannot be used for railroad purposes diminishes its value. I might say one other thing in answer to that. I think I quoted the figures here the last time, that some fifteen years ago I think \$1.65 was paid per square foot by the city for land in connection with the pumping station. You see, this is at Thirty-ninth and Lake Avenue. I think the Commissioner of Public Works at the time that land was taken estimated it at \$1.65 per square foot.

Mr. GOLDSTINE: Mr. Rosenthal, is it not a fact in a condemnation suit, would it be the truest test of value, if the expert witness would be allowed to be asked before the court and jury whether it was used for railroad purposes or whether the land was just valued at its market value without reference to the railroad?

Mr. ROSENTHAL: Both questions might be asked, but the question of value under—

Mr. GOLDSTINE: Which would be the test?

Mr. ROSENTHAL: Under the authorities the value of the land is the best uses it could be put to—the best use it could be put to at that time.

Mr. GOLDSTINE: But not a speculative use in the future?

Mr. ROSENTHAL: But this is immediately to be turned over to the Illinois Central.

Mr. GOLDSTINE: If there were proceedings in court—

Mr. ROSENTHAL: We are not dealing with a theoretical condition.

Mr. GOLDSTINE: You must deal with the matter as to its value for commercial purposes.

Mr. ROSENTHAL: If this was to be sold to Tom Jones or some one else the question might be an entirely different one than if it was being sold to the Illinois Central.

Ald. BLOCK: Are the figures stated in your report based upon a good and sufficient title?

Mr. GOLDSTINE: These values are not based upon a good and sufficient title, but upon made lands ready for the market, and values that will be borne out by actual sales and property to be sold in the immediate neighborhood of the proposed improvement along its entire line.

AARON M. MCKAY: Mr. Chairman, in the line of real estate that I follow I probably have had more to do with railroad values in land in railroad use than any other man for the past twenty years. Mr. Rosenthal seeks to convey the idea that after land passes from private ownership into the railroad that then that land takes on a value which is much in excess of the lawful cash market value. In theory, while I know it is so expressed by the Supreme Court, that land once in a railroad has not a cash market value in the ordinary acceptation of the term, but in the practicality of the matter there is not a case to the contrary where railroads have sold to each other and exchanged property, but that in every instance the value of that land while in railroad use is precisely the cash market value of that land for any and all uses. It is also true that in lessor companies like the Illinois Central that leases the Big Four, West Michigan and Michigan Central, the land is fixed by the ascertainment of the cash market value of that property for all uses, including railroad use. The next thing that comes up as an object lesson is wherein the Chicago and Western Indiana sold railroad property to the Sanitary District for the widening of the river. We got cash market value and nothing else, and then the extremely large strip of land from Twelfth to Sixteenth Streets on the west bank of the river, the Chicago, Rock Island and the Northwestern Railroad both sold to the Sanitary District for exactly market value. The railroads in reconstructing their terminals had to trade and sell property to each other, which was fixed exactly on the basis of cash market value. The same thing occurred in the long strip of property paralleling Taylor Street from Canal to Ashland Avenue between the Panhandle and the Milwaukee & St. Paul, and two real estate men here fixed that value on which the railroads settled. In other

words, this idea of hidden or unknown value when in ownership and use by railroads is something that nobody has ever been able to discover, and I have never seen a railroad man yet who ever could express tangibly or in dollars and cents what any piece of land was worth as a railroad proposition.

Thereupon the committee adjourned to meet on Tuesday, January 30, 1912, at 3 o'clock P. M.

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PROCEEDINGS OF THE COMMITTEE ON HARBORS, WHARVES AND BRIDGES  
OF THE CITY COUNCIL OF CHICAGO.

Tuesday, January 30, 1912, 3 o'clock P. M.

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The chairman, Alderman Littler, called the meeting to order.

Secretary Harrah called the roll, showing the following members of the committee present: Aldermen Littler, Long, Nance, Buckley, Kunz, Brennan, Geiger, Block, Forsberg and Hey.

The CHAIRMAN: The first speaker this afternoon whom I will call on to address this committee will be Mr. Louis A. Damon.

Mr. LOUIS A. DAMON: Mr. Chairman, I have a summary here which I have prepared, which in a few words seems to me to sum up the situation from the standpoint of the moral question involved.

Ald. GEIGER: I would like to ask whom you represent.

Mr. DAMON: Simply myself as a South Side citizen. I am the publisher of a little bulletin. I simply represent myself as a citizen living along the lake shore. I have lived two years overlooking the Illinois Central and have been making a study of the whole situation both from the standpoint of harbor improvement, subway improvement and lake front improvement, and in fact, so far as I could, other things which enter into the making up of the Chicago Plan.

Ald. GEIGER: Are you the owner of property on the South Side?

Mr. DAMON: No, sir, I am not a property owner. I am a citizen doing all I can to help along the work that seems necessary. I have summed up, as well as I could, the outline of the moral features.

It is true that the city, through prolonged litigation, might ultimately wrest from the Illinois Central Railroad the riparian

rights which the railroad claims, and the city thereby become the owner of lands to which the railroad now claims ownership; but to continue such a fight for the sake of the additional property which might thus be secured, would not be worth while in view of the things which would in the meantime be lost to the city.

As things now stand we are offered an opportunity, through arbitration, as it were, to settle a question which would otherwise have to be fought out in the courts, and from a standpoint of actual value it will be worth more to Chicago and will be worth more to the world at large, if the more peaceful method wins.

If this dispute is settled by the means at hand, it is true that such settlement will be to a certain extent a violation of good morals from the standpoint of those who would insist on following out the stricter form of procedure.

There are moral reasons for supporting this proposition and there are also moral reasons for opposing it. There is a moral value in the principle of settling disputes outside the courts wherever possible, and in this particular instance I believe that the proposed method of reaching a settlement has the greater moral value of the two methods which might be employed.

The questions of riparian ownership and the amount of land and water which the Illinois Central will secure through this transaction are, both together, of lesser importance than is the matter of securing a speedy settlement of the problems involved through the means at hand.

I therefore respectfully urge the passage of the ordinance.

Ald. BLOCK: What is your occupation?

Mr. DAMON: I am the publisher of a bulletin called the *Chicago Way*. I might explain in that respect that last summer I took up the matter of—I would say first that I was working with the Chicago Association of Commerce, Water Division, last summer, and on the 30th of June, at the time the Association of Commerce held their excursion for the sons of members, I was one of the guides, and as we were coming between the river here and South Chicago, the Calumet District, as we call it out there, reaching about Thirty-ninth Street, there seemed to be given to me a picture of what might be, and when I came back home I decided I would go ahead and make a little effort so far as I could to secure results for the betterment of the south shore, having in mind, as far as I could, the provisions laid down in the Chicago Plan. The first and best angle which I could see was to take it up from the standpoint of a South Side organization which would represent property owners and citizens, and to organize a public sentiment looking forward to

the development of the South Side along the line of the Chicago Plan, and with that idea in view I started a petition and secured on that petition 100 names stating the specific things which we intended to do within that organization. We proposed to do what we could towards securing early electrification of the Illinois Central, and to study the natural subdivisions of our great city and to secure easy access to the lake shore and facilities which may be provided along the lake front. We called a meeting for the purpose of creating an organization on the 22d of September, and just before the meeting was held I had a conference with Mr. Moody and Mr. Butler, and it seemed best, considering everything, that we should not organize something that might duplicate an organization which was then being formed, so, by mutual consent, we called off the meeting, and since then I have been doing what I could individually along this line, publishing a bulletin from time to time dealing with the matter, and sending it to the people so they might not lose interest. We hope negotiations will be settled and we will know upon what basis to take up our work, and we will carry out the provisions which will be called for. I thank you, gentlemen.

The CHAIRMAN: The secretary has a communication from a gentleman present, who has asked me to have the secretary read it instead of himself.

(The secretary read the following communication from Addison Blakely, 631 Groveland Park, Chicago:)

*To the Chairman and Committee on Harbors, Wharves and Bridges.*

GENTLEMEN: According to the report of the Real Estate Board submitted to your honorable body yesterday, the net excess value of land acquired by the Illinois Central Railroad Company over the value of the land transferred to the South Park Board is \$4,859,302. According to others, the excess value is estimated \$20,000,000 in favor of the Illinois Central.

In either case this excess of value passing to the Illinois Central Railroad Company would be offset by the benefit accruing to the South Park Board and the City of Chicago, if the proviso limiting the crossing over the present and added right of way to four crossings per mile were to be struck out of the ordinance; and, instead of such provision, provide that the present right of way, together with all additional right of way, shall be covered over with a sufficient structure to support an automobile and carriage driveway from Randolph Street in Grant Park to Fifty-first Street, thus making one of the widest and most beautiful driveways of the world, between the two lake front parks, Grant and Jackson.

At the same time such an arrangement would shut off all of the objectionable features—the noise, smoke and flying dust and cinders arising from the right of way from Randolph Street to Fifty-first Street, and would actually restore the lake shore to the South Side.

Any one really familiar with South Side values knows that the Illinois Central Railroad has had a markedly depressing effect upon realty values west of its tracks, and that a plan to turn this right of way into a part of the south shore park plan, in reality hiding entirely the presence of the road from view, and restoring the whole shore line to the South Side population, would undoubtedly add millions upon millions of dollars of value to South Side property.

This plan would also materially add to the beauty, the utility and grandeur of the Chicago Plan, which the Real Estate Board urges forward.

As long as the Illinois Central, on the face of the statement made by the proponents of the deal, is gaining substantially \$5,000,000 by the ordinance, let us incorporate the overhead boulevard plan, which would unquestionably make the deal a business proposition on both sides, and restore to the South Side the lake shore, enabling them to receive the full benefit of the 1,500 acres of made park lands, without being cut off by the Illinois Central gorge, belching forth its noise, its smoke and its cinders, destroying property values and depriving the people of the immeasurable benefit which would otherwise be theirs.

Where an evil can be turned into an important feature of a beautiful park system, it would seem to be worse than folly to neglect the opportunity.

The Chicago City Council today has the chance to make a master stroke in the accomplishment of the elimination of a destroyer of property values, and turning that selfsame evil into an overhead driveway which would be an invaluable link in the Chicago Beautiful Plan.

Millions upon millions can, by your action, be added to South Side values, and at the same time give to the Illinois Central the added right of way needed in their transportation business.

This proposition simply evens up the considerations passing between the parties involved, but at the same time each party is immeasurably benefited by the transaction, and Chicago will be able to boast of a driveway from Grant Park to Jackson Park unrivaled in any of the park systems of the world.

Respectfully suggested,

ADDISON BLAKELY,  
631 Groveland Park.

(One-half block west of the Illinois Central.)

CHICAGO, January 30, 1912.

The CHAIRMAN: We will now have the pleasure of listening to Mr. G. A. Hyers.

Mr. G. A. HYERS: Mr. Chairman and gentlemen, what I have to say comes right in line with what Mr. Blakely says in his letter, which has just been read. I have here in my hand a petition of thirty property owners along Lake Avenue, who have signed this petition, and the wording that they have signed reads:

The undersigned property owners and citizens of Chicago hereby enter our protest against the City Council of the City of Chicago ratifying a proposed agreement between the Commissioners of the South Parks of the City of Chicago and the Illinois Central Railroad Company, whereby the I. C. R. R. Co. are to receive 200 feet additional right of way for surface tracks between Twelfth Street and Fifty-first Street, and hope that the City Council will not pass an ordinance endorsing said agreement unless it be so modified as to put the I. C. R. R. in a subway.

In connection with that I want to say a few words, which I did not say the other day when I made the speech here. I am now representing property owners which, I understand, have not filed their petitions against this ordinance as it has been presented to the committee of the Council, and I want to further say that we have a law that is on the statute books, granting the South Park Commission the right to make a bou-



levard from Twelfth Street south through the parks up to Groveland Park and Woodlawn Park, Douglas Monument Park into Lake Avenue, and from there to Thirty-first Street, a boulevard along the shore. That was tendered to the South Park Board some seven or eight years ago, and then they said they had not the means to put a boulevard along there. Now they are going to establish a boulevard that is going to be out nearly a mile from the shore line. How are we going to get to that boulevard? We will have to build viaducts at least 900 to 1,200 feet long to reach it, and it will take longer to go out to that boulevard than it would to stay on a car and go to Grant Park or go to Jackson Park or see the museum over there. Now, gentlemen, I do not see where there is a great advantage about bringing the museum downtown, although I am in favor of that, but when you come to figure that matter you are going to have still a boulevard that you will have to go out to on stilts, that the people cannot get to. It is built out there for the benefit of the people, but how are they going to get out there? You people can use that boulevard by having access to it in automobiles and carriages through Grant Park. How is it going to be with the people who have signed these petitions? I have not asked one person on Lake Avenue to sign the petitions remonstrating against this ordinance but what has responded, and my fellow citizens down there have not had an opportunity to know what the facts are in this case. They are all blind to the City Beautiful. To think, gentlemen, that there is going to be 660 feet of open railway tracks that are going to be shown to our foreign visitors as one of the curiosities of Chicago—the beautiful 600 feet of tracks that we are going to have along the lake front to show to our foreign visitors when they come to see us and spend their money.

I want to say further regarding the South Side park. Most of the gentlemen who are advocating this ordinance live on the North Side. We on the South Side have been trying to do away with the smoke. We have been trying to do away with it through the Woman's Commission. We have not been able to get a fair hearing before the Council because the Illinois Central or the Northwestern would pack any meeting we would have with 400 or 500 engineers and firemen who would set up the plea that thousands of railroad men living in Chicago would be thrown out of work, and consequently we were smoked out of the meeting. Do you know what the people along the South Side have in the way of parks? I heard a man say that the land between Twelfth and Forty-seventh Streets was of no value. I know of a property owner down there who, if this boulevard goes through there, will sell his property for \$10,000 less than it cost him, because it will deteriorate his property. It is not

fair and it is not right. We have parks along the South Side. We have Groveland Park at Thirty-seventh; Woodlawn Park between Thirty-fourth and Thirty-fifth. We have the Douglas Monument Park, and then the South Park a block from Thirty-sixth Street, and we have Ellis Park, a block from Cottage Grove Avenue, and then we go on down to Thirty-ninth and we have a park right in front of the depot station. At Oakwood Boulevard we have a park. The Oakwood Park is a beautiful park in the summer time, from Thirty-ninth and Oakwood Boulevard clear to Fifty-first. Then you go to Fiftieth and Madison Avenue, we have Madison Park. We are not suffering on the South Side. What we want is a boulevard along the shore. My proposition is to put the Illinois Central in a subway, get them forty or fifty feet underground. I have no prejudice against the Illinois Central. I am willing to let them have all the ground below the earth they want, but let us have our boulevard. Let us have it over their right of way, and let the railroad go through a 50-foot tunnel from Twelfth to Fifty-first. That would give them an elegant right of way, and over that right of way build a boulevard along the lake shore, and the people will have something I think they will thank you for.

I do not think of anything more, gentlemen. I know that the building of a boulevard out there is one of the most gigantic schemes that has been entertained in this country in many years. I do not believe that we could build a retaining wall out there that would stand against some of the storms we have. If you will go down to the Illinois Central and see the piles of ice there, with the wind behind those piles of ice I do not think that any wall would stand that battering ram. That has been shown on the north shore. The wall on the north shore was torn out by the waves. Gentlemen, they would have to build a wall almost of adamant to keep it in that lake. Then again they are going to take the lake from us. That is one of the things I do not believe they have a right to do. They are going to make a lagoon down there fed by a few openings through this wall. What kind of water will they have in that lagoon in a few years? It will be refreshed by a hole once in a while through the walls, but what kind of health will we have along there with that kind of water standing there stagnant, as it will be from year to year? I was amused at Mr. Butler yesterday afternoon. Mr. Butler made a speech here telling us about the poor children mounted upon that Logan Monument down on the lake front. My fellow citizens, I wish you could have been where I was today. I went down to see the President of the Illinois Central to see whether he would not entertain my proposition. I took the bull by the horns. I went right to the President of the road and I had a talk with him for nearly an hour before I came here, to see

whether he would not approve of my idea. While I was in his office I looked out upon that desert waste of Grant Park that we have been building for ten years, and what have they got? Why, gentlemen, don't they finish that up and give it to the poor children to go out and play in, but instead of doing that they are going to build a stadium there. What do we want of a stadium? It is all right for an occasion like this of last summer. I remember that during that meeting I never saw any great crowds in Grant Park. I never saw a time when the people did not have plenty of room or when Grant Park was filled. There was always room for thousands. I think if some of the empty space was filled it would be a good thing for the South Side. It would give us Grant Park as it should be—a park instead of a desert.

If you think it would be a good thing for the Park Commissioners to reserve their rights along the lake shore, Mr. Comerford might tell us whether that law is still in force that was passed by the Legislature some eight or ten years ago, giving them the right to build along the shore inside of the Illinois Central from Twelfth Street to Thirty-fifth. I think their right is still in force. I do not think it was ever repealed. One of my neighbors, who is dead, worked for many years to have that passed by the Legislature. I know that Mr. Donnersberger was one of the Commissioners at that time, and he ought to know whether the law is still in force.

I thank you kindly.

The CHAIRMAN: Mr. Thomas, do you wish to be heard now?

Mr. G. W. THOMAS: Mr. Chairman and gentlemen of the committee, at some personal sacrifice I came today.

The CHAIRMAN: Whom do you represent, Mr. Thomas?

Mr. THOMAS: I represent myself as a taxpayer. I came to represent my properties and, also, I regard it my duty as a citizen.

You have just heard the petition read from thirty of the residents of Lake Avenue protesting against the proposition. I protest as a taxpayer and voter against the passage of the ordinance. I protest against the contract; I protest against the Act of the Legislature. I protest first against the ordinance for the reason that by implication the Council of the City of Chicago surrenders its rights to cross the tracks of the Illinois Central Railroad. It can condemn the right of way across their tracks and break down the Chinese wall. I protest against the ordinance for the reason that in my opinion it is a covert attempt to extend the charter right of the railroad by an ordinance.

Now I am in the same position—that I am a layman and possibly Mr. Long will object to what I say, but I think most lawyers would be willing to admit that when a railroad has been chartered for the purpose of carrying passengers and freight

with a right of way prescribed, they cannot exceed that right or go beyond it. They cannot enlarge their right of way by virtue of an ordinance. Now that is all I care to say about the ordinance.

Now with regard to this contract, if anyone has read the contract carefully he will see that the contract is an interminable waste of legislation to be brought about before you can get any City Beautiful. I am in favor of the City Beautiful. I have seen this city rise from the mud. I played on this ground when it was used for a public school. I have seen four courthouses built here on Randolph Street. Within the sound of my voice I have seen the teams stuck in the mud with the sign up "No bottom." I have seen, as I say, Chicago raised from the mud. I am proud of the Chicago spirit. I am proud of Mr. Butler and I am proud of the irrepressibility of Mr. Wacker and every man that is working for the City Beautiful, but I do not believe that this proposed method of adjusting this matter is at all feasible.

With regard to this contract I want to say to the gentlemen that I do not think they will see the Field Museum built very soon, for the reason that this contract, made in favor of the railroad, provides that the passage of the ordinance by the city granting the road the right to use all of this ground—made ground—if they secure it, is made a condition absolute, that if you do not pass this ordinance the contract will not go; and moreover until you have had the right to that dividing line between the property of the railroad and the South Park Commissioners established by law, the rest does not go; you do not get any deed out there and you do not get any site for your Field Museum. They say that five years afterwards, or rather when they get that established, they will make a deed and then they will secure the real estate from a mortgagee. Now there is a chance for a guarantee; there is a chance for a ratification. The ordinance which has been presented to you gentlemen is absurd upon its face. How could you get the city to ratify a contract made by two other parties? How can you agree to ratify a contract that you were a party to? I cannot understand.

That is all I have to say about the contract except that the contract rests upon an Act of the Legislature which is without authority. How in the world can the Legislature vest title, of the public waters, in a private citizen or a private corporation? How could they do it? The Supreme Court of this State in the case of *The City of Chicago vs. The Illinois Central Railroad* distinctly held that the title to the submerged waters of the lake was held in trust for the people and cannot be bargained or sold. When the Illinois Central Railroad was built there was a government grant, and they had alternative sections of land and

they could sell it, but the Supreme Court says that the case is altogether different here. It says that the submerged land belongs to the people and is held for the people, and cannot be bargained and sold like the government land. Now, when they undertake to establish this dividing line in the courts, the Act precisely provides that a taxpayer may come in and say "I do not know what right these people have to this land." What answer can you make? If that is true, that they could not get that, what in the world—what in the world is your ordinance worth? Why do they want it? What would it amount to if they could not get this land under any circumstances? When the gentlemen are figuring here on this submerged land which they cannot get and could not get, are you not wasting time if you pass an ordinance resting upon a contract and resting upon an Act of the Legislature which is invalid and which the court must hold invalid? This is just simply the opinion of the layman. If you are not satisfied, if Alderman Long is not satisfied (he is the legal member of your board), let him ask the Corporation Counsel whether the Legislature of the State of Illinois can give this public land to a private corporation in fee with the right to sell it to anybody? It is a different thing, mind you, if the State Legislature grants to a public corporation like the South Park Commissioners the right to use that land, but they can only use it for a public purpose and that to my mind is perfectly within their province.

Now I want to suggest this: It is perfectly proper for this Council to open every one of the streets. When I was a little boy we used to play in Dearborn Park—a playground. Then, across the street at Michigan Avenue my father lived. His house was on the corner. We could look at the lake. We could go down there and gather stones and we did not have anything to disturb our pleasure at all. We did not have any railroad in those days at all; we had vessels and canal boats. By and by the Illinois Central came and fixed their terminus down at Thirteenth Street. They came down along the lake and cut off the vista by virtue of an ordinance of the Common Council of the City of Chicago. I live at Forty-first Street and when I want to show my grandchild the lake, I have to boost him up to look over the wall. At Oakwood Boulevard when the property was subdivided, we were to have access to the lake; it is walled up. Do you think any other city in the country or the world would submit to such a thing as that—that a railroad should wall you in so you could not get to the lake front? Today the Common Council of the City of Chicago can open every one of those streets and they can require the Illinois Central to put a flagman at each of the streets. If they do not like that they can put their tracks underground.

You talk about the police power of the city requiring the road to depress its tracks and requiring roads to elevate their tracks, but there is no such authority on the lake. If the Common Council wanted to do so, they could open those streets and have gates at the streets, and these gentlemen who are anxious to have the City Beautiful could join with Mr. Rosenthal and with the Governor of the State, and ask to have an Act that would stand fire, and would allow the South Park Commissioners to take the bed of the lake in a perfectly lawful manner and condemn whatever land the road may have with all of its rights, whatever they may be, riparian or other.

The CHAIRMAN: Is there any other gentlemen here who wishes to be heard at this time?

Mr. LEE: I have a communication, Mr. Chairman, that I would like to read to the committee.

The CHAIRMAN: All right, Mr. Lee.

(Mr. Lee read the following):

*To the Chicago City Council Committee, Harbors, Wharves and Bridges:*

The South Chicago Business Men's Association, in regular meeting assembled, having authorized a special committee to investigate and report upon the pending contract between the Illinois Central Railroad Company and the South Park Board, relative to lake front lands, and the committee having made such investigation and reported to the Executive Committee at its regular meeting Monday, January 29, 1912, and said report being concurred in, and said committee being unanimously authorized to protest against such proposed contract, hereby makes the following statement of facts.

The main feature of the proposed contract is the transferring to the I. C. R. R. of upwards of 160 acres of lake front submerged land, now belonging to the people, in exchange for the alleged riparian rights of the said railroad company. The Supreme Court of the United States has repeatedly ruled to the effect that the railroad has no riparian rights along the stretch in question, except where it owns the fee, which is at a few scattered points. State, county and city officials make the same statement and nothing has been advanced to show that the railroad owns any riparian rights. We therefore respectfully protest against the consummation of the proposed contract, for the reason that the people grant much and receive nothing in return. It is also evident that, if the people now own the submerged land adjoining the railroad, the South Park Board has the right now to step in and take possession of this land.

We respectfully urge, however, that first the South Park Board should improve the vacant park sites it now owns in the Calumet region at South Deering, Hegewisch, East Side, Burnside and Grand Crossing, for which money was raised by bonds.

Without depriving of credit the members who first informally suggested the matter, the proposition to compel the Illinois Central to depress its present roadbed is heartily endorsed, and we understand that the city can easily do this, as the road does not hold title to even its present right of way between Fifty-first Street and Park Row, according to the Chipperfield Report, page 183.

In any event the South Chicago Business Men's Association, through its Executive Committee and its special committee, respectfully protests

against the pending contract and the proposed ratifying ordinance now before your committee.

SOUTH CHICAGO BUSINESS MEN'S ASSOCIATION.

NIEL LYKKE, *President.*  
A. L. BLOCKER, *Secretary.*

HENRY W. LEE,  
GEORGE G. BENDER,  
E. W. WASHBURN,  
E. O. RATHBON,  
H. W. LEE,  
*Special Committee.*

GEORGE G. BENDER,  
*Chairman Special Committee.*

Mr. LEE: Now, Mr. Chairman, if you will permit me to make a few additional remarks, I will state that the Illinois Central has been in the business of stealing lake fronts for over a half century. I have shown you before how the Illinois Central came on piles out of the water, and how it benevolently assimilated its present right of way. In 1869 the Legislature presented to the Illinois Central Railroad a large tract of land, and although Governor Palmer vetoed the measure, it was passed over his veto, and then such a howl of public disapproval arose that a succeeding Legislature repealed the Act. But the Illinois Central does not confine its pilfering to lake front land, but it takes public streets and alleys or any other stray land that happens to be lying around loose. About two or three years ago, down in the Kensington District the Illinois Central, through its sub-company, the Kensington & Eastern, appropriated a public street longitudinally one mile in length, the extension of Cottage Grove Avenue south to One Hundred and Fifteenth Street, and my friend, Mr. Van Vlissingen, and I came before the Transportation Committee and battled for some thirty days with that committee and with the aldermen of the wards and with the Illinois Central Railroad, and finally we succeeded in getting the committee to compel the Illinois Central to buy a strip of land alongside of the street they had appropriated; and so, Mr. Chairman, it is no new thing for the Illinois Central to attempt to steal public lands, and I desire to say as a man of some experience in public matters that when we hear about these things, when we gain first information, when we see these things reported in the newspapers, we experienced newspaper men and public men can smell them as they are coming, just as an experienced newspaper man can smell a paid write-up and we know there is something doing, and the old quotation comes back, which, in English, is: "I fear the Greeks even bearing gifts."

Now, Mr. Chairman, there is a time when patience ceases to be a virtue. When this thing was first presented before the people of the City of Chicago, with these beautiful full page and

half page pictures of the Chicago Beautiful, and these beautiful lake front boulevards and the lagoons and forests and gondolas, and all this art, and beautiful landscape gardens that artists have put down in their dreams—it would take three or four hundred years and three or four hundred millions of dollars before this thing would ever be perfected—at that time, Mr. Chairman, it was looked upon as the creature of Chicago Beautiful, and a great many people were in favor of this tentative arrangement. But things went along, and finally we began to look into it, and we began to dig here and we began to dig there, and we began to sift things down, and finally we found out that the question—the main question, filtered down to the fact, what does the Illinois Central own on the lake front? Has it anything to trade? We found out, according to the best authority, and I have found nobody disputes that statement, that the Illinois Central has nothing to trade on the lake front. Therefore, Mr. Chairman, we thought it was time to cry “Stop, thief!” and we did cry “Stop thief,” and we find, Mr. Chairman, that some of the people who are trying to put this deal through are keeping on, and they are trying to brazen it through, and I want to say, Mr. Chairman, that I consider this attempt now, and will henceforth insist, that I consider it an outrage to attempt to put this deal through further. I believe that the City of Chicago can force the Illinois Central to depress its tracks or elevate them as it sees fit. I believe it can extend its streets through to the lake front without any further trouble whatsoever by condemnation proceedings, and when they extend them through, it can force the railroad to put flagmen there or elevate or depress and then to electrify, because I do not believe that the railroad owns its present right of way, and I think it is a very good thing that this thing has come up at the present time, because we know now what the Illinois Central owns and know what we can do.

The CHAIRMAN: Is there any other gentleman present who wishes to be heard? We will hear from Mr. Lathrop.

Mr. BRYAN LATHROP: Mr. Chairman, I had written a letter addressed to your committee, and learning that there was to be a meeting I thought I would not mail the letter, but would bring it here and read it to you.

(Mr. Lathrop read the following):

BRYAN LATHROP,  
407 South Dearborn Street.

CHICAGO, January 29, 1912.

*The Committee of the City Council on Harbors, Wharves and Bridges:*

DEAR SIR: It seems to me that the proposed arrangement between the South Park Commissioners and the Illinois Central Railway Company, sub-



ject to the approval of the City of Chicago, is the most important question for the decision of the people in the history of Chicago. As the Commissioners of Lincoln Park had a very small problem of somewhat similar nature, I hope you will pardon me if I write you a letter in regard to the matter.

The Commissioners of Lincoln Park were authorized by Act of Legislature to make extensions to the park over the submerged lands of Lake Michigan, on the express condition, however, that before beginning the work of extension, they should first acquire, either by purchase or by condemnation, the riparian rights of the shore owners. By another Act of Legislature, a method was provided by which the courts could define the boundary line between such extensions of the park and the lands of the shore owners.

The sum given to the Commissioners to make an addition of some 250 acres to Lincoln Park was only \$1,000,000, which was evidently not enough to purchase the land, to enable us to do the work economically and to complete the extension, and it was, therefore, essential that we should use the utmost economy in our expenditures. Instead of resorting to the costly expedient of court proceedings for the condemnation of the riparian rights, we availed ourselves of the authority under the second Act cited, and after a year's negotiation agreed with the property owners to give them a strip averaging 100 feet in width of the submerged lands, and for a portion of the frontage we agreed to fill this strip to a prescribed height. In this case the shore owners had nothing to give but their riparian rights.

When the Chipperfield Legislative Committee, in its report on the misuse of the submerged lands, included this settlement by the Commissioners of Lincoln Park in its general attack on the appropriation of submerged lands, I sent a letter to this committee explaining the whole transaction, defending it and assuming for myself the entire responsibility for it. I took the ground that, as the State owns the submerged lands, and as the State will own the park extensions, it was an eminently proper and judicious use to make of the submerged lands to apply a portion of them to acquire the riparian rights, instead of taxing the people to pay for them.

The plan submitted by the South Park Commissioners is very similar in principle to the above, but the case is much stronger and the urgency much greater. What the Park Commissioners seek to acquire is not merely the riparian rights of the shore owners, but some very valuable tracts of existing land. To acquire these riparian rights and these tracts of land by condemnation would involve much delay and costly litigation and an uncertain sum, but probably several millions of dollars. It seems obvious that it is a wise policy to acquire these tracts of land and the riparian rights by giving in exchange a strip of submerged lands, thereby securing without delay the objects aimed at by the Park Commissioners and by avoiding the burden upon the taxpayers of a large cash payment.

The chief objects of the commissioners are, first, to secure a site for the Field Museum as near as possible to the center of the city. The second object is to begin as soon as possible the construction of a breakwater between Grant Park and Jackson Park, so as to take advantage of the excavation from the subways as soon as they are begun, and of the dredging from the river, which is now being dumped into Lake Michigan, to the injury of our water supply.

There is very urgent need of a decision as to the site of the Field Museum without delay, since plans for the building have been adopted and contracts for it have been let, and the construction is only delayed temporarily, pending an early decision as to the site. The trustees of the Museum are committed to a site in Jackson Park unless in the near future another site is offered to them. The people of Chicago are vitally interested in having a site given to the Museum at Twelfth Street.

If the ordinance now before the City Council is passed substantially in its present form, Chicago will secure five and one-half miles of water frontage unequalled by any other large city in the world. With the proposed new railway station at Twelfth Street and Michigan Avenue, the

Field Museum east of it and the Great Basin of Honor, with sites for other fine buildings of a public nature, fronting on Grant Park, Chicago will have one of the finest architectural settings to be found in the world.

I have no interest in the Illinois Central Railway, but I have great interest in the City of Chicago, and it seems to me clear that the interests of Chicago demand the adoption, without any avoidable delay, of the main features of the plan submitted by the Park Commissioners, and I am convinced that the failure to carry out this plan will be a great calamity to our city.

To carry out the exchange proposed by the plan does not involve one dollar of cost to the people, and I regard it as somewhat immaterial whether a little more or less of the submerged lands is given to secure for Chicago the most beautiful feature that it can possibly have.

As to the fear that the railway company may build warehouses over the present right of way by moving its tracks onto the new land, I think it probable that all railways have the right to build warehouses and similar structures over their rights of way above the movement of trains, as the New York Central Railway Company is building great structures in New York over its wide expanse of tracks north of Forty-second Street. If this is the case, the granting of a wider right of way would not give the railway company any new privilege as to such structures.

There is always danger in haggling over a bargain. I fear that in seeking to make a better bargain with the railway company we shall lose the opportunity to place the Field Museum on Twelfth Street. It would be an irremediable injury to the city to force the museum to build miles away from the center and to deprive the people of easy access to the great collections of natural history, with all their educational value.

Permit me to add that I have no relation whatever with the railway company, and have not conferred with any of its representatives in regard to this matter, and am giving you merely my own views of it.

I only hope that the great importance of the subject may excuse the length of my letter.

Very respectfully yours,

BRYAN LATHROP.

Mr. VAN VLISSINGEN: Mr. Lathrop, the Lincoln Park Commissioners have the power to condemn, have they not?

Mr. LATHROP: Yes, sir.

Mr. VAN VLISSINGEN: Do you know whether the South Park Commissioners have power to condemn or not?

Mr. LATHROP: I do not know, but my impression is they have the same power.

Mr. VAN VLISSINGEN: Do you not think your power to condemn is because they are shore owners?

Mr. LATHROP: It took me a year to get the shore owners to make agreements with me. For instance, the Lehmans, they had an idea they would get enormous damages. At first they wanted a very large amount. We only arrived at a settlement after long negotiations.

Mr. VAN VLISSINGEN: If you could not agree, you could condemn the property?

Mr. LATHROP: That is my impression.

Mr. VAN VLISSINGEN: While I am on my feet—

The CHAIRMAN: Can you give the idea what it cost the Lincoln Park Board to acquire the riparian rights?

Mr. LATHROP: We got it by giving a 100-foot strip, for a half a mile. There was urgency there to go on with the work. I think the people were anxious to have it. That was one of the concessions we made. After that we acquired a great deal of riparian rights for park extensions there.

The CHAIRMAN: You did not expend any money for riparian rights?

Mr. LATHROP: No, not a dollar.

A CITIZEN: Does not your experience as a commissioner suggest to you that the new park that is to be built on the South Side would be of immeasurably more value if it was open to the people with boulevards over the Illinois Central instead of having the Illinois Central cut the South Side off from the park system. If there was a boulevard built over the Illinois Central for its entire length, opening up the whole of the South Side to the whole of this park, would it not be of immeasurably more value to the people of the South Side?

Mr. LATHROP: I fancy it would be a very good thing if all the railroads could be put out of sight. I don't know how you are going to get at it—how you are going to get them all underground.

The CITIZEN: Would it not be of special value to have the railroads not cut off the park from the people? Is it not of greater value to have a track below the surface than upon the surface, generally?

Mr. LATHROP: As I understand the proposition in regard to Grant Park, the track is to be half covered over, somewhat similar to the way they have it in Park Avenue, New York. The track there is partly opened, but is closed at the street intersections and opened the whole length of each block, and there is a little planting alongside so that the passerby is not conscious of a railway being there. That might be done at Grant Park. We are planning to hide tracks. If the tracks were depressed, of course, that will be easier to do. A little planting alongside would conceal them entirely from view.

Mr. COMERFORD: You said that by analogy of business men in common experience, it would be an advisable thing to settle disputes, or to gather in claims or rights by contract rather than by recourse to the courts?

Mr. LATHROP: No, no, I didn't say that. I said any business man having more land than money would use land to attain an object, using a piece of land to trade rather than to use money.

Mr. COMERFORD: I understood you to say that the Park Board on the North Side had the right of condemnation.

Mr. LATHROP: Yes, sir.

Mr. COMERFORD: You said, instead of resorting to con-

demnation in the courts you resorted to peaceful contract with the owners of the riparian rights, and gave them some consideration in exchange for the giving of the riparian rights to the North Park Commission or the Lincoln Park Board.

Mr. LATHROP: Yes, sir.

Mr. COMERFORD: You considered that it was good business policy to resort to the peaceful method rather than the court method because of the time and expense. In the cases you have in mind is it not a fact that you knew at the time that you parted with the consideration that the parties had riparian rights?

Mr. LATHROP: Yes, sir.

Mr. COMERFORD: You knew that?

Mr. LATHROP: Yes, sir.

Mr. COMERFORD: In other words, as a commissioner and trustee of the people, you would not have been in favor of giving something to someone, of value, who did not have riparian rights?

Mr. LATHROP: By inference I presume you infer there are no riparian rights to the South Side. I never heard that statement made until this afternoon. I never doubted but what they had riparian rights. I never heard the question raised that they did not have riparian rights. Gentlemen, do you know how the Illinois Central came to Randolph Street? I came here in 1865 and the city was talking about it then. The City of Chicago was poor. The lake was washing away the land on the lake front and they said: What can be done to protect it? The people went to the Illinois Central, the Mayor and Common Council, and the population of Chicago, and they said, "Save us, you build a breakwater out here to protect the shore of the city and you can come down to Randolph Street." That was the history of that land that I heard when I was a boy ten years old.

Mr. COMERFORD: Would that give them any riparian rights?

Mr. LATHROP: Gentlemen, I am not going into the legal question.

Mr. COMERFORD: Suppose they have no riparian rights, would that change the tone of your letter addressed to this committee?

Mr. LATHROP: What they had then would be only the lands they owned.

Mr. COMERFORD: Then that would be a question of the examination of the abstract of title.

Mr. LATHROP: I fancy they could get an opinion from the Chicago Title & Trust Company in forty-eight hours.

Mr. COMERFORD: Is not the usual method of determining the rights of property the examination of the records, the abstract of title? Did you ever know, in your experience of a private

citizen, of any man buying property, or anything of value, not claiming the right to have an examination made of the abstract of title?

Mr. LATHROP: The usual thing in all railroad transactions is to make a contract of sale by which the two parties agree to make a sale on certain terms subject to the examination of the title. That would be the case here of yours. I am not going to take up much of your time. If this agreement went through, of course, it would be subject to approval of title.

Mr. COMERFORD: That is where you are mistaken (referring to the Illinois Central contract). No one would dispute the fact, as I now state it, that it would not be subject to subsequent examination—the subject of title?

Mr. LATHROP: They might make that. It would be a proper time to make it.

Mr. COMERFORD: Have you ever had an opinion of title on the property in question?

Mr. LATHROP: No.

Mr. COMERFORD: Would you advise that the City of Chicago should confirm certain claims that the Illinois Central now makes without an examination of title?

Mr. LATHROP: Do you mean the riparian rights?

Mr. COMERFORD: Yes, property rights.

Mr. LATHROP: That would be a proper inquiry to be made if the Council had any doubts as to there being a title. It would be a proper thing to have that matter looked into.

Mr. COMERFORD: Is it the custom in transactions in which people part with a valuable consideration to ask the other person about his title? Is it not the practice to determine the title in the vendor before the vendee parts with the consideration?

Mr. LATHROP: I never heard of any cases.

Mr. REDFIELD: I have refrained from even suggesting anything about this matter, because I thought it was unnecessary, but it is really right that this committee should know that the Commissioners have considered that very question; that it is my purpose to furnish this committee with a certificate of title from the Chicago Title & Trust Company as to the ownership of the shore land between Twelfth and Fifty-first Street. I trust that I will have it for you tomorrow.

The CHAIRMAN: I was going to ask Mr. Comerford if he would accept the Chicago Title & Trust Company's abstract of title?

Mr. REDFIELD: Before you answer the chairman's question I want to suggest for his consideration that possibly the State Court in determining the correctness of this decree, or whether the decree should be entered, would go into the question, and, in fact, would it not be the court's duty to ascertain the other ques-

tion of ownership and determine these other questions that he has so wisely and so intelligently put up to this committee? I refer now to the decree under this boundary law.

Mr. WACKER: I remember Mr. Comerford said that he had so little time to look into this whole proposition the first time he was here, that he made excuses for his presentation of the case; I would like to ask him whether he has looked up all of these questions from Twelfth to Fifty-first.

Mr. COMERFORD: In answer to that question I am perfectly willing to appear before the committee if the Corporation Counsel will appear and say that the—

Mr. WACKER: Please answer my question. Did you examine this question of title to ascertain the rights of the—the riparian rights along the strip from Twelfth to Fifty-first? You always insist upon yes or no.

Mr. COMERFORD: I am not sure, Mr. Wacker, that I understand what you understand when you use the words, “the examination of title.”

Mr. WACKER: Have you personally investigated and know to whom the riparian rights belong, from Twelfth to Fifty-first Streets? That is a simple question.

Mr. COMERFORD: I know this, that under the Supreme Court decisions of the United States the Illinois Central never owned the land granted in Section 3. Can it have a riparian right? That is proposition No. 1.

A CITIZEN: Will you give the Corporation Counsel those decisions?

Mr. COMERFORD: Offhand? I have not them with me. I have them in my office.

The CITIZEN: Do you refer to anything outside of the case in the 146th?

Mr. COMERFORD: Yes, there are a number of cases touching the same proposition. That is one case.

Ald. LONG: Are there any other cases?

Mr. COMERFORD: I am willing to assume the responsibility of furnishing a brief if some one first furnishes some reason in law for saying they have title, and I think it is unfair to suggest to me that the burden is on the protestant here to show that the Illinois Central has any title. When I go out and buy a piece of property in the market, it is up to me to prove to the person selling the property that I have the valuable consideration to give him to pay for it, and it is up to that man to prove to me that he has the title to the property. Now the proposition I have made to your committee is simply this, that you have a law department; you have a Corporation Counsel; the South Park Commissioners have an attorney, Mr. Redfield, and this contract has been submitted here, and although in connection

with this contract an original draft of an ordinance was submitted, no one yet has submitted any examination of the title to that property, showing that the Illinois Central has a title, and it is not up to me to point flaws in the Illinois Central's title until some one comes in here and tells you that its title is good. That is a proposition that is sound in general business and sound in morals, and there is no lawyer here that has ever entered into a transaction from a different point of view, and there is not a business man here that has ever entered into a business transaction from any other angle, and you have no right to ask this question. Are our trustees to assume that the title there is good?

Mr. WACKER: Are you answering my question?

Mr. COMERFORD: I have answered your question. Have you examined the title, Mr. Wacker?

Mr. WACKER: I don't know any who—

Mr. COMERFORD: Have you had an attorney do it?

Mr. WACKER: No, sir.

Mr. COMERFORD: Has the attorney of the South Park Board submitted an abstract to you?

Mr. REDFIELD: Not to you, brother. What I will have here tomorrow morning, gentlemen, will be what I consider as of more value than the opinion of the eminent counsel at the farther end of the room, and that is a certificate from the Chicago Title & Trust Company as to the ownership of the shore lands between Twelfth and Fifty-first Streets.

Mr. COMERFORD: There is nothing to get angry about, Mr. Redfield.

Mr. REDFIELD: You do not anger me; you never do; you simply instruct and amuse me.

Mr. GOLDSTINE: Can you answer the question? As a general proposition, in a real estate transaction, is it the custom to do as you say—investigate the title and then make a contract, or is it the custom for the parties to negotiate the transaction, enter into a contract, and then subsequently close the contract in accordance with the terms of the contract, provided the title was good?

Mr. COMERFORD: That is the usual and customary proceeding.

Mr. GOLDSTINE: Is it not in this case a contract entered into under those conditions,—an ordinance is asked for to ratify the contract, not to conclude the contract, but to ratify the contract, an ordinance or whatever it may be; let them go up to the Circuit Court for investigation and if the transaction is not proper, the court ought to be trusted not to let such a contract be carried out—that the contract would not be carried out if the title was not good.

Mr. COMERFORD: You mean to say that the only settlement of the contract must be by the court—that the property owner has the right to appear in court to answer the petition filed by the Park Board asking for a ratification. That puts the onus on the property owner—the individual act of the citizen. His going into court is a matter of financial consideration and that is why this Council is organized to veto it, if necessary.

Mr. GOLDSTINE: The statement was made on yesterday that the Real Estate Board in making its valuation assumed that the title to the land was good. The attorney informed the chairman that the South Park Board would furnish this committee a certificate of title by the Chicago Title & Trust Company, that the title was good. Now in an ordinary transaction involving the title of land, is it not assumed that a certificate of that kind is good title?

Mr. COMERFORD: It depends on the character of the title.

Mr. GOLDSTINE: Have we a right to assume that that certificate is to be different from the usual certificate of title we get?

Mr. COMERFORD: I will say that while I have been present that has been the assumption from the parties who were in favor of this proposition, and the people who have opposed it have been characterized and insulted because they ventured here to express an opinion contrary to the opinion of the men who are paid to do the work.

Mr. GOLDSTINE: I do not think that needs an answer.

Mr. COMERFORD: That is merely the point of view.

A CITIZEN: If you were looking at a piece of property and saw it was occupied by a going business and had been occupied by that same going business for twenty-five years, and you were told that the man in charge offered it for sale, would you not assume that he owned the property?

Mr. COMERFORD: Not for the purpose of passing upon his title. If I did, I would be disbarred.

A CITIZEN: This is a contract, not a sale.

Mr. LEE: The contract does not state that the Illinois Central owns the riparian rights. The contract states that the Illinois Central claims the riparian rights, and I would like to state, Mr. Chairman, that even if the opinion of the Chicago Title & Trust Company should indicate that these vested interests have title, there is still the Supreme Court of the United States.

The CHAIRMAN: Who else wishes to be heard?

Mr. VAN VLISSINGEN: Gentlemen, the main object of this proceeding, as I understand it, is to secure the construction of a boulevard from Grant Park to Jackson Park. Now the members of the City Council have had some experience in the mat-



ter of opening out streets and they know that they could not get very far in opening public streets if they did not have the power to condemn the property. Mr. Lathrop assures us that the Lincoln Park Commissioners already have the power to condemn the riparian rights and we are also informed that the South Park Commissioners do not have the power. Now suppose you get this Illinois Central Railroad contract settled on a satisfactory basis, that does not settle the matter of your boulevard from Grant Park to Fifty-first Street. There are a number of other owners along the lake front and each one of those property owners has to be satisfied. Any one of those property owners could refuse to accept the terms the South Park Commissioners may want to offer him. The matter can never go through without going to the Legislature and getting from the Legislature the power of eminent domain so as to condemn his rights. Now as far as this proposition stands at present, they seem to be seeking to go as far as they can get. Among other things, we give them 400 or 500 or 600 feet of additional land to make smoke on. They will go into occupancy at once, and then if finally we find one man who refuses to accept the terms we offer him, we are stuck and the improvement cannot go ahead; and what good is that going to do if it cannot be completed as a whole? Now, gentlemen, the South Park Commissioners have their hands tied. The South Park Commissioners should have the power of eminent domain in this matter and they should get enabling legislation from the Legislature at Springfield so they can proceed to open the streets the same as the City Council would under like circumstances.

Mr. CHAS. H. WACKER: Mr. Chairman and gentlemen, I am somewhat surprised to hear Mr. Lee object to this improvement as much as he does, because I remember very well that he was a strong supporter of giving the Illinois Steel Company a complete right to 200 acres of land, which is pronounced by a great many people in the City of Chicago as an unwise thing, and I want to say that I helped him do it. I was on a committee of the Association of Commerce at the time the matter was up, and I believed then and I believe today that it was a good thing for South Chicago and that it was a good commercial proposition to keep that great industry within the State of Illinois rather than to let it go to Gary.

I am not going to make an oration, nor am I going to raise my voice to a high pitch. I think this is too serious a matter to resort to anything of that sort, nor will I appeal to the prejudices of the people because I am not built that way, nor will I state my case in magnificent sentences that are certainly, many of them, misleading. I think I will leave that to the coun-

sel on the other side. This is a plain statement, made by a plain every-day business man, and I think after it has been read, you will at least understand my position, and you will also understand that I stake my reputation upon it, and I want it known forever that I personally, as a citizen of Chicago, take the position I do in this paper (reads):

No great public improvement has ever been made without serious opposition. Just as in politics and in civilization differences of opinion always manifest themselves. Even the Christian religion could not be introduced without the crucifixion of the Savior.

So here—it was not to be expected that this great improvement could be accomplished without opposition. This opposition and the discussion which it has occasioned has emphasized the public advantages of this great enterprise.

The opposition agree that the ends to be accomplished are highly desirable; their objections go simply to details; they say:

If the Legislature is convened:

And if the Legislature will pass a law giving the South Park Board the power of condemnation;

And if the courts will sustain this legislation—

Then it will be possible to condemn the riparian rights and secure the lake front to the public by making compensation to the railroad in money, without giving to the railroad the additional strip of land which it acquires by virtue of this contract.

If this contention is analyzed, it will be found that the suggestion is merely a way not to accomplish the improvements, but to divert public attention from the Council to the Legislature, and in the end accomplish nothing.

Why is this true? The improvement involved in this contract, briefly stated, is:

The public acquires the lake front from Grant Park to Fifty-first Street with the right to add at least 1,500 acres to the park area.

Connect Grant and Jackson Parks by an outer boulevard.

Extend South Park Avenue across the railroad tracks into Grant Park.

Acquire in fee simple the tract of land (between eight and ten acres) south of Grant Park and east of the railroad now occupied by railroad tracks, as a permanent site for the museum.

To cover over 100 feet (50 feet on each side) of the present right of way of the Illinois Central Railroad from Twelfth Street north; on the west side to Randolph Street; on the east side to Monroe Street, thus enabling the Park Board to build the greatest stadium in the world on the east side of the railroad in Grant Park with the necessary approaches from Michigan Avenue over the railroad.

To extend the widened Twelfth Street from Michigan Avenue across the tracks into Grant Park, giving to the West Side a splendid direct approach to the lake, and bringing the great West Side into close proximity to the lake.

The extension of Grant Park to Twelfth Street.

The removal of the Illinois Central to the south of Twelfth Street, and the construction of a new station south of Twelfth Street; and

Last, but no means least, the creation and the establishment of a splendid pleasure pier at Twenty-second Street, and the establishment and equipment of two bathing beaches south of Twenty-second Street, ample for the public accommodation.

This in brief is what is accomplished.

With the slightest consideration of the subject by any disinterested person, it will be manifest that these results can only be accomplished by negotiation and cannot be accomplished by litigation.

If the power to do these things could be conferred by the Legislature, it would involve such a series of litigation as to make any action impossi-

ble for at least ten years. The Legislature has power only to confer upon the South Park Commissioners power to take lands for park purposes.

No power of condemnation given by the Legislature to the South Park Commissioners will enable the South Park Commissioners to accomplish the splendid results here involved, through the courts. Such a thing would be practically impossible.

Why is this true?

If, as is suggested, the Legislature may give the South Park Commissioners power to condemn the riparian rights and make compensation therefor in money, this by no means accomplishes the objects here sought.

Contemplate for a moment an effort to condemn the Illinois Central railroad station and office building—to extend Twelfth Street. What would such an effort mean if power to do so existed.

No power of condemnation can destroy the Illinois Central Railroad, nor deprive it of its station, because the station and railroad are necessary for the public use, nor can you take away from it its railroad lands where they are necessary for the public use.

Even if it were possible to acquire the land for the site for the museum, or to condemn its railroad station to widen and extend Twelfth Street, the amount of money involved would be so tremendous, and the litigation so protracted, that the enterprise could never be carried out.

No great enterprise of this character ever has been or ever can be accomplished by lawsuits.

Regarding condemnation proceedings:

Precedent is afforded in the experience of the Lincoln Park Board in its negotiations for the great lake front improvement it is now carrying out. It had the power to condemn. Why did the Lincoln Park Board not employ that power?

Primarily because of the great delay and litigation it would entail.

Another reason why the Lincoln Park Board did not condemn was because, in the sanity of its wisdom, it decided that the more expeditious and profitable way to proceed was by mutual agreement.

Everybody knows what the Lincoln Park Board's great lake front improvement means to the Northwest Side and to the entire city. No complaints have been heard. Everybody is satisfied—so much so that an additional bond issue of \$800,000 for additional improvements was cheerfully voted by the people at the last election.

The experience of the Lincoln Park Board is the experience of every successful business enterprise. Expediency of procedure is by the well-tried route of mutual agreement, whenever equitable and possible.

I do not care to add anything to what has been said as to the money value of the trade. That is a matter as to which men may fairly differ. The truth is there is no standard in money by which the subject can be measured. The public gets what it wants:

It gets the lake front.

It gets a permanent location downtown for the museum.

It makes possible the great stadium.

It makes possible the extension of Twelfth Street across the railroad to the lake.

All of the other things here involved are not only made possible, but they are accomplished, and are accomplished now.

Please bear in mind the fact that Chicago is now trying to do something to accomplish the consummation of its great civic plan. This contract marks the beginning of a great epoch, a step in advance. The suggestion to wait for legislation means delay—delay and nothing accomplished.

If the idea of the opposition prevails, the great improvements for this city are likely to get a setback for another decade, and if the subject is revived it will meet with opposition, because nothing can be accomplished without opposition.

The argument that the widening of the right of way to the lake front and the proposed lake front park would remove the lake still farther from the people, it seems to me, is not worth considering. The question of two or

three hundred feet more or less one way or the other cannot cut any figure. The people today do not enjoy the lake front, and we propose to give the people five miles of new parks, or 1,550 acres, without filling to a greater depth than from twenty to thirty feet at any point, and at a number of points not more than ten feet. This would add new parks in extent nearly half our present total park area where now they have nothing. Besides a part of the proposition is to carry all cross-town lines of transportation direct to the Illinois Central right of way, so that the people from all parts of the city for a 5-cent fare reach the health-giving lake front playgrounds, baseball fields, tennis grounds, pleasure piers and bathing beaches.

From 75 to 100 acres of land per year can be created, without practically any additional cost to the city, in the manner outlined in a letter addressed to the City Council under date of September 23, 1911, a copy of which I herewith hand you and which I desire to have made a part of your proceedings.

Electrification is sure to come. The Chicago Association of Commerce has established a bureau with a most competent staff of engineers, which is organized for the sole purpose of evolving practical plans to meet conditions here existing, which are radically different from the conditions in any other city.

If, as has been argued, the depression of tracks is desirable, and if the city can force the Illinois Central to depress its tracks on its present right of way, why can it not force the depression of tracks on the additional width whenever, in the wisdom of the City Council, it should be done.

No citizen who will take the time to intelligently, broadly and thoroughly investigate the proposed agreement between the City of Chicago, the South Park Commissioners and the Illinois Central Railroad, can underestimate the value of the improvements that would follow in the wake of its consummation.

Furthermore, negotiations now pending lead me to believe that the consummation of the contract pending between the South Park Commission and the Illinois Central would mean the removal of the Polk Street depot, the Michigan Southern and the Union Depot from their present locations to south of and facing Twelfth Street. This would bring all the important passenger depots, excepting the Chicago and Northwestern, within the area of but a few blocks.

Can any citizen question the commercial value to our city of such improvements?

Great metropolitan cities have long since capitalized their luxuries and found it a splendid paying investment. Can any citizen question the hygienic benefit to be derived by the people from the reclaiming of the health-giving lake front?

Chicago's present park area is between 3,000 and 4,000 acres; for health and order there should be an acre of space to each 100 population. Chicago's average is 780. In the thickly populated districts there are 5,000 people to one acre of park space.

Are there any thinking citizens who believe we can maintain our commercial standing and retain our position as the trade center for fully fifty million people without catering to their tastes or making our city agreeable, comfortable, attractive and healthful? All of the projects mentioned can easily with the proper support of the people be promptly carried out.

The improvements spoken of, combined with West Twelfth Street, and that of Michigan Avenue from Randolph Street north to Chicago Avenue, and the improvements outlined in the Plan of Chicago from Grant Park to Jackson Park, would give to Chicago a water front without in any way interfering with the harbor developments which would be at once more useful, imposing and grand than the water front of any other city in the world.

There is a letter here that I would like to read and place with you.

(Mr. Wacker read the following letter):

DR. HENRY BAIRD FAVILL,  
32 N. State Street.

CHICAGO, January 30, 1912.

*Mr. Charles Wacker, Chicago, Ill.*

MY DEAR MR. WACKER: Your favor of January 30th as to the attitude of the City Club on the proposed South Park Illinois Central ordinance received.

It is practically impossible in a club of this size to ever poll its membership on a controversial question like this with any accuracy or fairness, consequently we never do it.

The directors at times authorize the utterance of committee reports with reference to special subjects. No action whatsoever has been taken by the City Club directors upon the question of this ordinance. The question of opposing it has never been brought before them, and the City Club must be regarded as absolutely not a party to the negotiation in any sense.

The activity of some of its prominent members is absolutely individual and they should not be embarrassed by regarding them as spokesmen for the club.

Whether the club as a whole is favorable to the ordinance or opposed to it, I have no means of finding out, but state to you definitely that it has officially taken no position in the matter.

Very truly yours,

H. B. FAVILL.

Mr. LEE: Can I ask Mr. Wacker a question? I would like to ask you, if, supposing for the sake of argument, that these gentlemen who make the statements that the Illinois Central has no riparian rights along the lake front, and that the title to the submerged land adjoining the Illinois Central right of way is in the State of Illinois, these gentlemen—I refer to Mr. Stead and Mr. Wayman and Mr. Brundage and Mr. Gardner and Alderman Theodore K. Long—if these gentlemen are right, and if the Supreme Court is right in making that statement, Mr. Wacker—

Mr. WACKER: Are you asking me to assume that they are right?

Mr. LEE: Yes, that their statements are correct. Would the South Park Board then,—would they not have the right to step right in there and make all these beautiful things they have told us about without asking permission of their neighbor, the Illinois Central?

Mr. WACKER: I think I went into that pretty fully in my paper. I think I stated my position upon that. I do not understand it, but I think Mr. Lee means that by getting the necessary right to condemn we could then do all these things.

Mr. LEE: I beg your pardon, that is not just what I meant. Could I tell the gentleman what I mean, Mr. Chairman?

The CHAIRMAN: I think I thoroughly understand what you mean.

Mr. LEE: Mr. Wacker evidently does not understand what

I mean. The point is this, Mr. Wacker, there is a suit now pending and the gentlemen who are prosecuting the suit on behalf of the People of the City and the State, give the information to the judge in their statements that the title to the submerged land now adjoining the Illinois Central right of way—that that title rests in the State of Illinois. They make that statement. Now we will assume that they agree with the Supreme Court, we will assume for the sake of argument that the Supreme Court is right, and that these gentlemen are right in making this statement, then if the State of Illinois owns that land today, cannot the South Park Board go in there tomorrow and build all these beautiful pictures without asking permission from the Illinois Central, in your opinion?

Mr. WACKER: I do not think so.

Ald. KUNZ: I would like to ask Mr. Lee this—the State's Attorney, the Attorney-General and other parties have filed a bill in chancery reclaiming the land now in possession of the Illinois Central Railroad Company, is that a fact?

Mr. LEE: No, I think not.

Ald. KUNZ: Is not that what the bill is for?

Mr. LEE: I think I would rather refer you to Mr. Comerford who is the lawyer upon the thing. However, I am perfectly willing to tell.

Ald. LONG: I object. I want Mr. Lee to answer. He poses here as a lawyer. I want him to answer.

Mr. LEE: I pose here simply as a man who can read the English language and understand it fairly well. I went over into the court vaults and got a paper. I gave you the number of the case, and it was presented on yesterday.

Ald. LONG: Answer Mr. Kunz's question. Be fair.

Mr. LEE: I do not know what the purpose of that suit was, whether it was to reclaim land. I assume it was the purpose to enjoin the Illinois Central from filling in any more land.

Mr. O'NEIL (representing the Chicago Federation of Labor): Mr. Chairman, may I say a few words? I have been attending this meeting, Mr. Chairman, for the purpose of getting information. There has been considerable brought up here that was very interesting to me as a representative of the people that are going to use these parks, if we get them.

Ald. KUNZ: Pardon, me, for a moment, I want a gentleman here, one of the pioneer citizens of Chicago, to answer a question.

The CHAIRMAN: Let him wait.

Mr. O'NEIL: I happen to be a kind of a pioneer myself. I have been here since 1863. That is my natural life.

Ald. KUNZ: Then you might answer my question, if you do not mind. Do you know whether it is true or not that the

Illinois Central Railroad was requested to put in piles at the time they were given entrance along the lake shore to Randolph Street, that they were given that for the purpose of protecting the shores of the city?

Mr. O'NEIL: I could not give you that. I do not know anything about that. I will retire and give you the opportunity to get an answer.

Ald. KUNZ: I would like to ask you that question. You heard the remarks made by Mr. Rosenthal that the City of Chicago authorized the Illinois Central to protect the shores.

Mr. LATHROP: Not to my knowledge.

Ald. KUNZ: If it was done, would you know?

Mr. LATHROP: It might have been done without my knowledge. There was a breakwater near the shore sufficient to protect the city's banks. I remember at one time there were gullies that came up to the street.

Ald. KUNZ: All right, you do not know.

Mr. O'NEIL: Now, Mr. Chairman, my purpose in rising upon this occasion was after hearing Mr. Wacker speak of the Steel Company's steal, as some people call it, in South Chicago. I happened to be in Springfield during the session. I was not representing the Illinois Central Company, but I was representing in part some of the men that worked for the Illinois Central. I found their lobbies were very strong there. They came down there in special trains and kept us up until 11 and 12 o'clock on these committees in the State House, and finally they beat us on these bills. But that is not exactly what I want to impress on the committee this afternoon. It is this, that that great body of citizens of Chicago that are going to use the parks and do use the parks, are now studying this ordinance and they intend,—the working people of Chicago intend—to inform the Council whether they believe this is a good contract or not. We are going to ask the committee, at least, if they get through with their deliberations, to give an opportunity for a good careful consideration of this plan to the Chicago Federation of Labor. I am sure they will give you some information as to what the citizens of Chicago want.

Mr. H. B. SPURLOCK: Mr. Chairman, I am here representing the Lake View Property Owners Association. They held a meeting on last Friday night and this resolution was passed, which I will read:

LAKE VIEW PROPERTY OWNERS IMPROVEMENT ASSOCIATION.

Meets at Clifton Hall, Clifton and Belmont Aves., Fourth Friday of each month.

The following resolution was passed by the Lake View Property Owners and Improvement Association, at its regular meeting held in Clifton Hall, on Friday evening, January 26, 1912:

*Resolved*, that the Lake View Property Owners and Improvement Association go on record as opposed to a ratification by the City Council of the City of Chicago, of the agreement entered into between the South Park Board and the Illinois Central Railroad Company, relative to the lake front lands and claimed rights, now before the Committee on Harbors, Wharves and Bridges for consideration; and that we favor the passing of a law by our State Legislature empowering the municipality or Park Board to condemn such lands as are proposed to be acquired from said railroad company in and by the aforesaid agreement.

H. B. Spurlock, president of the association, was instructed to present said resolution at the Council Committee meeting on January 29th.

H. B. SPURLOCK, *President*.

ATTEST:

JAMES E. PRENDEROAST, *Secretary*.

Mr. Spurlock then said:

Now everything has probably been mentioned here in the way of an argument that can be brought up, but I want to add a word. There is no question but what the Illinois Central is considered a nuisance in its present location on the lake front. As far as beautifying the lake front is concerned, if it is a nuisance it seems poor policy to extend that nuisance rather than to limit it. I have heard quite a good deal of talk here in regard to beautifying the lake front. A great many word pictures have been made here as to what we shall expect in the future, but if you will remember, about ten years ago, when the question of settling the lake front question—where it was involved at that time between Randolph and Twelfth Streets—when that was under consideration we had these beautiful pictures hung up to our view. But how many people, how many citizens of Chicago and especially the poorer class, enjoy this lake front, and is it so beautiful? I would advise them not to make that trip across the viaduct upon hot nights. In the daytime it is not such an attractive place the way it is now, but, of course, if this improvement goes on we may look for the Field Museum and that will be a good thing, but outside of that, in my judgment, about the only thing that this lake front will amount to will be for automobiles. There will be automobile roads there and persons who can enjoy automobiles will have the pleasure of using it.

Now there has been a good deal of talk here in regard to the opposition that a law will meet for the purpose of giving the South Park Commissioners the same right for condemnation to acquire these lands. You will all admit that if the Illinois Central has any rights, that the proper place to thrash them out is in the courts, where they will meet every question and it will be taken care of in the same way that all other condemnation suits are taken care of. Then the citizens of Chicago will be satisfied that it has been done in the regular way, and this City Council will not be subject to criticism. I do not see why it is



that some of the speakers expect any great difficulty in getting a law from the Legislature that would empower the South Park Board to do what they have empowered the Lincoln Park Board to do, and if that opposition is to come from interests that are trying to acquire rights here that are questionable, I do not think this committee should surrender to those rights. I think they ought to proceed under this law, and I do not see how anybody could refuse to vote to give them the right—to give the South Park Commission the rights that the Lincoln Park Board has. I do not know of anything else to add in regard to this.

The CHAIRMAN: You are from the Lake View Property Owners Association?

Mr. SPURLOCK: Yes, sir.

The CHAIRMAN: You have a large park area up there?

Mr. SPURLOCK: Yes, sir.

The CHAIRMAN: You are anxious to have Lincoln Park improved by the issue of bonds?

Mr. SPURLOCK: No, sir. We objected to it. I will say that that resolution passed without a dissenting vote.

The CHAIRMAN: Nobody up there would object to improving Lincoln Park.

Ald. GEIGER: How many were there at your meeting when you passed that resolution?

Mr. SPURLOCK: About 100.

Ald. GEIGER: Had they heard of this contract?

Mr. SPURLOCK: They had read of it in the newspapers and they heard the thing discussed, and I think they had most of the arguments presented to this committee.

Mr. LEE: I presume there were men there who possessed the same wisdom as others and they had the same opportunity to study the question intelligently.

Mr. SPURLOCK: This association has taken a large interest in public affairs.

The CHAIRMAN: They never questioned the right of the Lincoln Park Commissioners to give land to the riparian owners so that the park might be extended.

Mr. SPURLOCK: They questioned the bond issues up there.

The CHAIRMAN: They did not go into the right of the bond issues.

Mr. SPURLOCK: They had an opinion from an attorney upon the bonds that the issue was not legal and they objected to it when it came to a vote.

Mr. LESSING ROSENTHAL: Mr. Chairman, there is very little I have to add except a few things that I wish to say in reply to the address furnished to the chairman just now and the remarks of Mr. Wacker. The people on the North Side may have been perfectly satisfied with the situation on the South Side, but the

situation on the North Side was different from the South Side. I want to assure you that none of us here would be opposing this particular grant if there were no railroads on or a system of railroads to be located along the lake front. The thing that makes the situation on the South Side so different from any other situation that we have had here with reference to the extension of any park or with reference to beautifying the city, is that while on the one hand, we are endeavoring to beautify, on the other hand we are increasing the amount of smoke, and increasing the amount of noise, and increasing soot and grime, and all the consequent evils of having a railroad yard just in the center of the city and immediately adjacent to what is in time to be a beautiful park.

Now let me say another thing. I do not know that the consent of the government has been obtained for this project, and supposing you pass this ordinance and we get all through it, this grant here to the Illinois Central Railroad is conditioned upon the government subsequently permitting the filling in land. It may be that after the right of way of the Illinois Central Railroad has been widened and the nuisance of the lake front increased, that the Park Commissioners will find that they are not permitted by the government to do a number of the things we have at the present time in contemplation, and yet there is no reservation whatever in the agreement or ordinance.

Now I want to repeat, I think I have stated here already that the persons who put through this agreement of December 11, 1911, between the Park Commissioners—the South Park Commissioners and the Illinois Central Railroad, were probably doing the best they could in the light of the information they had, and recognizing the fact that they had no power whatever in the law, that they practically had to accede to the terms of the Illinois Central Railroad if they wanted to carry this project through, and they deemed it for the best interests of the city in their judgment to carry it through on the best terms they could get. I venture to say that some of these gentlemen were not originally satisfied with these particular terms, and I venture to say that Mr. Donnersberger has expressed himself here that they would never be satisfied if they had been on an even footing—if they had been allowed to condemn this property, if the Illinois Central Railroad Company had not acceded to the terms that they wanted.

Mr. Wacker has stated that it would be questionable whether the city would have the power to condemn the Illinois Central depot or take away any part of the Illinois Central right of way. Now I want to say for his information that that question has been adjudicated several times. I have before me a case of the *United States vs. Electric Company*, decided by the Supreme

Court of the United States, reported in the 160 U. S. Reports, and I brought it here simply because I believed the question might be raised by some. There the question was whether the United States might take the property of the Gettysburg Electric Railway Company for the purpose of marking the lands of the Gettysburg battlefield, and the Supreme Court held that the power of Congress to change lands devoted to one public use for another and different purpose, upon making just compensation, cannot be disputed. Now that is the law and that question cannot be injected into this case.

Mr. WACKER: Cannot litigation be injected into this case if you undertake to do it?

Mr. ROSENTHAL: I am very glad you mentioned that. The proposition has been at all times since this question came up, that we cannot avoid litigation.

Mr. WACKER: That is not my question. My question is simply this, whether you believe that the Illinois Central would permit the present yards that they are using for railroad purposes to be condemned without litigation.

Mr. ROSENTHAL: We might have litigation.

Mr. WACKER: It would take ten years to settle it.

Mr. ROSENTHAL: We are not building for today; we are building for the future. We are not settling things for the immediate present. That has been the policy of the Council the last few years.

Now what was done in 1895 with the Illinois Central Railroad Company? I have had for your benefit an abstract made of the ordinance to the Illinois Central Railroad Company and the settlement agreement that was made in 1895. Now you gentlemen who are familiar with this matter will remember that there was the severest criticism and condemnation of this particular scheme in that it was not sufficiently favorable to the city, and yet with all that criticism this particular ordinance is distinctly more favorable; it gives the city a great deal more than the present ordinance does. Now are we going to take a step backwards in this cause or are we going to step forward? Are we going to safeguard the public rights more or are we going to be laxer in protecting the public interests?

With your permission I would like to read this from the abstract:

"Lake Park, east of Michigan Avenue and between the south line of Randolph Street and the north line of Lake Park Place (Park Row) shall be extended by enclosing and filling space in the shallow waters of Lake Michigan within certain boundaries."

This space is estimated at ten acres.

"The railroad company is granted permission to enter upon and use in perpetuity for railroad purposes all that part of the land to be so filled in

and reclaimed which lies between its present works and grounds on the lake shore and a described line between Randolph and Adams Streets; provided that it either pay to the city the cost of filling or do the work at its own expense."

Now then the next section of the ordinance specifies the conditions of this particular authority:

"The railroad company shall, at its own expense, depress its roadbed between a line 200 feet north of the north line of Peck Court, projected east and parallel thereto, and the north line of Monroe Street projected east, so that the base of the rails of the west and east tracks laid thereon shall not be more than six feet above Chicago city datum; space between to be crowned to afford proper drainage, but base of rails of intermediate tracks to be not more than seven feet above Chicago city datum. North and south of above lines the roadbed shall be depressed so as to allow connection.

The railroad company shall, at its own expense, build two retaining walls, between Randolph Street and Lake Park Place, to be raised to an elevation of 22 feet above Chicago city datum.

(The lines of the walls are described in detail.)

"The railroad company shall, at its own expense, construct viaducts across its tracks in line with not more than four streets between Randolph Street and Lake Park Place, to be designated by the city; each viaduct to have carriageway and two footways. Whenever directed by Commissioner of Public Works, it shall construct, at its own expense, a footway across its right of way in line with any other street between Randolph and Lake Park Place. Each said viaduct, etc., to be of metal and not less than 16 feet in clear above tracks at its lowest point.

"The railroad company shall, at its own expense, cause the Randolph Street viaduct to be altered and extended so as to furnish access to the new made public ground east of the railroad, etc.

"The railroad company shall, at its own expense, cause a retaining wall to be constructed along the eastern dock line and the southerly line of the area being closed and filled, as above provided.

"The railroad company shall furnish and deliver material to the extent of 200,000 cubic yards, if so much is necessary, to fill in the lake front park, lying between the company's right of way in Michigan Avenue to 22 feet above Chicago city datum.

"The railroad company shall relinquish and surrender to the city the two filled projections into the lake beyond the east line of its right of way, at the foot of Peck Court and Harrison Street, and also any land there may be east or outside of a described part of its right of way.

"Work to be prosecuted without unnecessarily obstructing the operation of the railroad.

"The railroad company is given authority to construct, maintain and use in perpetuity a passenger station on the public ground at the foot of Van Buren Street."

(Details are given as to entrances, pipes, etc.)

"The railroad company is given the right to lay and maintain permanently, necessary conduits and drainage pipes.

"The structures heretofore erected by the railroad company in front of its passenger station, may be permanently maintained, and the railroad company shall have the right to use in perpetuity its grounds and right of way between the north line of Randolph and the southern boundary of Lake Park, and the railroad tracks thereon, for all legitimate purposes, except that no structure shall be erected thereon exceeding in height the top of a wall maintained along the west side thereof, etc."

No structure was to appear above this retaining wall, to keep the view therefrom unobstructed to that extent. Of course you know the chief criticism of this ordinance was, and to my notion a perfectly proper criticism, that the people of Chicago have since regretted, was that the lake front park was left so as to obstruct the view of the lake from Michigan Avenue, and, of course, to that extent prevented the air from circulating, and so on.

"The right is reserved in the City Council to pass any reasonable police regulations.

"The obligations, etc., imposed on the railroad company by this ordinance shall be dependent on its being permitted to have the rights above mentioned, etc.

"The railroad company shall relinquish and surrender to the city any riparian or littoral rights it may have incident or appurtenant to the land owned or occupied by it to the shore of the lake between the north line of Lake Park Place projected, and the north line of Twelfth Street projected, on condition that the submerged land which the railroad company is authorized to fill in for its own use by Section 4 of this ordinance, and between the south line of Lake Park Place projected east and the railroad company's Thirteenth Street pier, shall never be filled in nor access thereto from the waters of the lake obstructed, without the consent of the railroad company, except that the railroad company shall, if permitted by the Secretary of War, construct, at its own expense, a substantial bulkhead or breakwater from the Thirteenth Street pier; provided, however, that nothing herein contained shall be held to affect the rights of the City of Chicago to exercise its rights of eminent domain; the pier to be maintained by the railroad company and reserved for its own exclusive use, and a like pier to be maintained by the City of Chicago and held for public use."

You will remember that this case went to the Supreme Court of the United States and was adjudicated some years ago by the Supreme Court, and since that time there have been decisions that are reported in the 146 U. S. and since that time there is the case in the 152 U. S. and a subsequent case in our Supreme Court, which have been much more liberal to the people than the original Illinois Central case, and under the theory of which some of the rights that were acquired by the Illinois Central under the original judgment would not have been granted to it if the principles at law had been followed as were laid down in the subsequent cases, and which are now applicable to the right of way south of Twelfth Street. By the way, Mr. Comerford will correct me if I am wrong, he spoke yesterday of one of the extensions of the riparian rights—that you have the right to build wharves out into the lake; the Supreme Court has held in some cases that that is a right that is not incident to a riparian right.

I also wish at this point to say that I agree with the proposition of law that Mr. Comerford laid down here yesterday, that where the fee is not in the Illinois Central Railroad that it is a mere easement for its passage; it has no riparian rights to any other place where it is filled in without the consent of the

authorities; that it has forfeited its riparian rights, it itself destroyed that riparian right. Those two things are very important points to bear in mind in the consideration of this particular ordinance as to what the Illinois Central ought to have today. Now that is the ordinance I referred to—the ordinance of 1895. Now is it not absurd to say that we have made no progress since that time—that we have learned even more at this date about what the rights of the people are and what the rights of corporations like the Illinois Central and others are? Do we have to cringe to them before dealing with them properly? Ought we not deal with them on equal terms? I do not think that the Illinois Central Railroad should have any less rights than the city should have or any less rights than the public or any less rights than the Park Commissioners, but I say that in dealing with them they should not have greater rights conferred upon them.

Now my attention has also been called to the ordinance of 1853 under which the Illinois Central came into the city and under which the city still has certain rights which are all lost sight of in this negotiation, just as though we had no power to restrict the Illinois Central Railroad Company. Under that ordinance permission is granted to the Illinois Central Railroad Company to construct and maintain within the limits of Chicago, along the margin of the lake, a railroad and so forth upon the terms and conditions following, etc. I might say, Mr. Kunz, in answer to your question, that I am informed in the early days a petition was addressed by the Illinois Central Railroad Company to Congress imploring Congress to maintain the break-water and protect its shore rights against erosion, otherwise this right of way might be washed into the lake.

MR. BUTLER: Referring to that former bill or ordinance—you are getting down to 1853, that ordinance—did you not forget to state just what the Illinois Central Company received in consideration for those things which they granted to the city?

MR. ROSENTHAL: In 1895,—I said they received 10 acres of land.

MR. BUTLER: Ten acres of land at Randolph Street?

MR. ROSENTHAL: No.

MR. BUTLER: Eight of it there, I believe, worth five or ten times as much as the other we receive now.

MR. ROSENTHAL: No, their rights were even greater at that time. The Illinois Central surrendered .34 hundredths of an acre between its right of way—between Peck Court and Harrison Street—and it received the right to fill and use at its own expense two parcels of submerged land near Randolph and Park Row aggregating 10 acres.

MR. BUTLER: Worth five times as much per acre as the piece of land I am talking about.

Mr. LEE: That is another advantage in the steal.

Mr. BUTLER: Possibly.

Mr. ROSENTHAL: You compare the value of what was received there and received now, and you will find it decidedly favorable to the ordinance of 1895.

Ald. KUNZ: Do you consider, Mr. Rosenthal, the 1895 ordinance to be a valid ordinance compared with the present ordinance?

Mr. ROSENTHAL: I think the 1895 ordinance is a fine ordinance compared with the present ordinance.

Ald. KUNZ: The newspapers at that time were very much opposed to that ordinance. This time they are in favor of the present ordinance. How do you account for that?

Mr. ROSENTHAL: That is one of the remarkable things we sometimes see.

Ald. KUNZ: The reason I ask the question is that sometimes a man is not given credit for his own judgment but is expected to act in accordance with the judgment of the newspapers.

Mr. ROSENTHAL: That was the ordinance of 1895. That was a beautiful ordinance in comparison to the ordinance now presented to the City of Chicago.

Mr. VAN VLISSINGEN: You do not say it was a good ordinance at that time.

Mr. ROSENTHAL: I believe that the Illinois Central should have been forced to depress its tracks so there would have been an unobstructed view of the lake and I think it should be done in this particular case. It is only a matter of standing our ground and not being frightened by these alleged corporate rights.

Now I am not going to read in detail the specifications of that ordinance, except to say this, that the ordinance of 1852 required the railroad company to construct gates at the ends of the streets which are now or may be hereafter laid out, as may be required by the Common Council or other civic bodies and the like. Of course now we are only to have access at the expense of the people and by means of viaducts built at the cost of the people; approaches built at the cost of the people, and damages to be at the expense of the people.

I think your attention ought to be called to another matter that occurred here the other day. You remember that Mr. Rush spoke in behalf of this ordinance as representative of eighteen Hyde Park Improvement clubs and said he was in favor of this scheme except he wanted to limit the switching south of Thirty-first. After listening to the arguments of the afternoon Mr. Rush met me in the evening, and said, "After hearing what was said before the Council Committee I have completely changed

my mind about this thing, and I think the position your proponents to the ordinance have taken is absolutely right." I asked him if that changed the opinion of eighteen improvement associations.

The city has rights in this matter and the South Park Commissioners have rights. If those rights they have at the present time are not sufficient, why those rights ought to be increased and then we ought to deal with this matter properly. We ought not to have a great railroad yard along the lake front if we do not need a great railroad yard, and I say, in the settlement of this question, we do not need a great railroad yard, and I am not opposed to the railroad yard simply because it is a railroad yard, but because if we are contemplating a real improvement here, then let us go the whole length and receive what the people in the future need, by insisting in connection with this matter that the Illinois Central Railroad tracks shall be depressed, by insisting that the right of way shall be confined and shall not be extended in this particular place. We are told that the Illinois Central is not asking any increase; that the Illinois Central did not come and say that they needed more tracks. If that is the case I ask you gentlemen how can you justify yourselves in the creation of an additional nuisance? It means a great deal. It has been described here as a barrier and it will be a real barrier when we estimate the size of it.

Now there is no necessity for a thing of this sort. Let us deal with it as sensible men who have some right in this proposition, and let us make an ordinance which we can be proud of in later years and not one which we will be forever ashamed of.

The committee then adjourned to meet on Friday afternoon, February 2, 1912, at 3 o'clock P. M.

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PROCEEDINGS OF THE COMMITTEE ON HARBORS, WHARVES AND BRIDGES  
OF THE CITY COUNCIL OF CHICAGO.

Friday, February 2, 1912—3 o'clock P. M.

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The chairman, Alderman Littler, called the meeting to order.

Secretary Harrah called the roll, showing the following members of the committee present: Aldermen Littler, Nance, Derpa, Long, Emerson, Block, Kunz, Hey, Geiger and Mayor Harrison. Among others present: Mr. Teninga, Prof. Chas. E. Merriam, Messrs. Maclay Hoyne, Henry Lee, Robt. Redfield,



John Heron, J. Van Vlissingen, Stanley Field, Frank Comerford and Lessing Rosenthal.

The CHAIRMAN: This is a continuation, gentlemen, of the public hearings that we have been holding for the last ten days on this lake front proposition between the South Park Board and the Illinois Central. We are in hopes we may be able to terminate the public hearings today. I hope those gentlemen who have anything to say will make it as brief as possible and to the point; and if there is anyone in the room who has not been heard at all, I would like to give them the preference at this meeting.

Mr. HERON: Mr. Chairman, I would like to say a few words.

The CHAIRMAN: What is your name?

Mr. HERON: John Heron.

The CHAIRMAN: Whom do you represent?

Mr. HERON: I am chairman of the Harbors Committee of the South Side Business Men's Association, Outer Harbor and Lake Front proposition. We had this matter up when I was down here some time ago, asking to have the harbor between Twenty-ninth Street and Twelfth Street, as that is the deepest water in the lake known to anybody connected with the harbor. Now, as to this question of the ordinance for the Illinois Central, the matter came up there by which the South Side Business Men in their meeting thought it would be the proper thing for the city at this time, in connection with this ordinance, to give some help to the residents out along the line of the Illinois Central. Therefore, a communication was sent in here, signed by me as chairman of that committee, asking the City Council to consider a five-cent fare for the residents along the Illinois Central on suburban trains, and I think that in considering this ordinance a clause should be placed in it giving to the people who have built up that southern end of the city with homes, and have had to work for very cheap wages, a reasonable fare to get in and out of the city, and to help build up that part of the city. I do not think the Illinois Central will object to it. It is a small matter and runs along and will continue for years, and I apprehend that an ordinance that is to have this drawn into it, making it a part of the contract, would give to the Illinois Central a greater fund of money coming in, they would receive more money than they do now for fares; and therefore I am here to-day asking for, and on behalf of the residents of South Chicago and Hegewisch, and out that way, a five-cent fare, and think that they should have it. I have been communicated with by other bodies down there. I don't know whether they have appeared here or not. The business men of Kensington were to come down here, and also men from other societies up there, and demand

this same thing. Now, it is a small matter and yet it is a big matter. It is a big matter to the people that live out south. They have built their little homes; they have worked for cheap wages out in there, and their children are coming down into the city every day to earn something to help the home, and they are paying the most of their wages for carfare. Now, I do not see why a clause cannot be put into that contract by which the Illinois Central, as a part remuneration for giving the land up, and having gotten what they asked for out there, that the people have a five-cent fare to the city limits on their suburban trains.

The CHAIRMAN: What is the fare now from South Chicago?

Mr. HERON: I think it is ten cents from South Chicago.

A VOICE: The fare is fifteen cents.

Mr. HERON: Yes.

The CHAIRMAN: The fare you asked for is from South Chicago, is it?

Mr. HERON: No, from everywhere out there.

The CHAIRMAN: Does that include Pullman?

Mr. HERON: Anywhere on the Illinois Central between any two points, where the fare may be ten cents.

The CHAIRMAN: What is the fare from Pullman down town?

Mr. HERON: Fifteen cents also.

Ald. BLOCK: I would like to ask Mr. Heron whether he has anything to offer as to the minutes of the ordinance now under discussion?

The CHAIRMAN: Whether it is a good or bad ordinance.

Mr. HERON: The South Side Business Men's Association is in favor of getting just exactly what the ordinance calls for with this exception; they feel and believe and seem to know that the outer harbor is going to be between Twenty-ninth Street and Twelfth Street, the deepest water in the lake is there, and they feel that eventually a cut would be made from the lake right through just south, around Sixteenth street, right through to the river; so that the money spent by the United States Government in making a great turning basin out in the river there, can be used so that vessels can go even down the drainage canal without having a multiplicity of bridges, there being about six bridges across in there, and the only thing is to have some clause by which the city can eventually, if they want to make that cut through there, cut a water-way through. The outer harbor is going to go at Eighteenth Street. There isn't any doubt about it, because there is no other place on the lake that it can be placed, unless you spend millions of money dredging. It is 31 feet deep, I think, within about 250 feet of the shore; whereas,

at Thirty-first street it is only about 23 or 24 feet, and shallower all the way down. I might speak about a pier running out at Twenty-second street at the lake. If you put one there, you are going to fill up everything north of Twenty-second street. If you put the pier at Thirty-first Street, it will fill north, and it will keep all of that space south cleaned up. On the other hand, if you put a pier running out into the lake, as they claim, at Chicago Avenue on the north, it will fill up and make the Streeter track run out into the lake further yet; whereas, if you put it at North Avenue you will then fill the lake around Lincoln Park, and it would be of some use to the city and not fill the lake full of land to have future litigation about. The land north of Thirty-first Street will be filled for harbors and kept clean. Of course that is to be considered later on.

The CHAIRMAN: What kind of harbor do you think should be placed at this particular point, Eighteenth Street?

Mr. HERON: That is simply a side issue.

The CHAIRMAN: We are going to have harbors all along. You are interested in the request for the incorporation of a five-cent fare for the people you represent.

Mr. HERON: Yes. We feel the matter under discussion is equitably adjusted, and protected by the new features that have been presented by Mr. Hoyne and O. K.'d by the Mayor and that it should go through; but we do believe that you should now at this time take this into consideration and give the people out south there some benefit. I think it is the duty of the members of the council, and especially the aldermen from those wards down there to demand a five-cent fare and get it. It can be gotten, and all you have to do is to ask for it. I think the Illinois Central will give it to us very readily.

Ald. EMERSON: Supposing the Illinois Central would not agree to give a five-cent fare, what would your attitude be?

Mr. HERON: Make the best bargain you can. Make it five cents as far as you can go. I think they ought to have a five-cent fare between all stations from the main depot to the city limits, and no matter where you may go on any suburban train, from Hegewisch to South Chicago, make it five cents, and if you only want to ride three or four blocks, five cents.

Ald. EMERSON: You have not answered the question. If the Illinois Central refused a five-cent fare to the city limits, what would the attitude of your association be on this point?

Mr. HERON: Then leave the matter open until such time as you could get it.

Ald. EMERSON: Supposing we could not get it, what would be the attitude of your association then?

Mr. HERON: I don't think there is any doubt but what you can get it.

Ald. EMERSON: That is not the question I am asking you. If we could not get a five-cent fare to the city limits, what would be the attitude of your association?

Mr. HERON: We feel that the city is not being compensated, and we would be against it.

Ald. EMERSON: You are against it?

Mr. HERON: We are against it.

The CHAIRMAN: We will now listen to Mr. Herman Teninga, representing the South End Business Men's Association.

Mr. TENINGA: I am not going to make a long speech. What I am going to say, I would like to read, with your permission (reading):

CHICAGO, February 1, 1912.

*To the Committee on Harbors, Wharves and Bridges, of the City Council.*

GENTLEMEN:—The South End Business Men's Association being in thorough accord with the plan of reclaiming the shore lands for the people, firmly believe that the proposal to permit the Illinois Central to build an immense freight yard from Twelfth Street to Fifty-first Street is so completely out of harmony with the project of Chicago Beautiful as to be unworthy of serious public consideration.

We believe that no settlement should be made which increases the width of the railroad's right of way or permits an increase in smoke, soot or noise, and that the various reasons advanced in favor of the ratification of the pending agreement are of insufficient weight.

The Field Museum has attained that success which led Mr. Field to liberally provide for its growth and support in its present location near our center of higher education (The Chicago University) and the general public interest in this institution is not sufficient to justify despoiling our lake front in order to give the museum a commanding or central location.

The Illinois Central must soon build a new depot to accommodate its growing business. The widening and extension of Twelfth Street can be provided for in connection with the construction of this depot, and is now premature for the reason that the widening west of Michigan Avenue has not yet been and may never be accomplished. The hoods north of Twelfth Street will not be needed after electrification and cannot be built before. The viaducts we can always build. And, the proposed boulevard along a railroad yard is an absurdity.

We hold that it is common knowledge that the Illinois Central has acquired most of the shore lands it occupies by reclamation and unlawful intrusion on the public domain, and that it is bad policy to treat with this company on a basis admitting its right to these seized public lands. We firmly believe that the title to reclaimed lands is in the State; that the Illinois Central is occupying such lands without legal right; that an adjudication of these questions would give the city sufficient power to compel the railroad to electrify and depress its tracks along the whole lake shore, and that it is better to get a right settlement in time than to take a wrong one now.

We respectfully petition the Aldermen of the City of Chicago to refuse to ratify any agreement which increases the Illinois Central lake front nuisance or the width of its right of way above ground, and to take such action as lies in their power to secure a complete and early adjudication of the rights of the railroad and State as to the made lands.

We urge that no amendments to the present ordinance can gloss over or cure the unwise and inequitable provisions of the contract made by the South Park Board.

Respectfully submitted,

THE SOUTH END BUSINESS MEN'S ASSOCIATION,  
By A. R. RUNSTEN, *President.*

The CHAIRMAN: The South Side Business Men's Association has its territory on the South Side, has it?

Mr. TENINGA: Yes, sir, Roseland, Pullman, Kensington, etc.

The CHAIRMAN: We would be glad to listen to Professor Merriam.

Professor MERRIAM: Mr. Chairman and Gentlemen of the Committee: This plan now pending before your committee is based on a certain doctrine of the City Beautiful. To that extent I am heartily in favor of it. If you look at the outside circle of park that is to be built out from the lake shore, it does beautify the South Side of Chicago, and to that extent is a benefit to the entire city. But if you look at the inner belt, that is from the present water line in, it seems to answer just the contrary purpose. We now have a belt of 200 feet which creates a good deal of a nuisance on the South Side, and for many years the citizens there have been endeavoring to mitigate or modify in some way that nuisance. Now, by the terms of this proposed plan, you not only retain the existing source of trouble there, but you more than double it. Instead of having 200 feet of railways from Thirty-first to Fifty-first Street, we will have 400 feet, and from Twelfth to Thirty-first Street you have not merely 200 feet, but 400 feet, which will more than double the nuisance already existing on the South Side. Instead of beautifying that part of the city, you will make it rather more ugly than it is at present and will increase the particular source of trouble of which we have been complaining there for a good many years. You will have 400 feet of engines and tracks from Thirty-first down, and something like 660 feet from there north; from Thirty-first Street north.

Now, I do not regard that as a consistent part of a plan for the City Beautiful. I think it will tend materially to decrease the beauty of that particular section of the city, and it will increase to a material extent, as far as that feature of it is concerned, the physical discomfort of the people who live in that section of the city. The outer part of this plan, that part of it which provides for an encircling part of boulevards and parks to be laid out into the lake, that unquestionably is a good thing. The inner part of it, and that which touches most nearly the life of the people, that plan has been thoroughly discussed here. I don't know that I could add very much to that particular side of it, but we do not appreciate the prospect of 400 feet of railways and engines, if they are to be put through down as far as Thirty-first Street, and then the great freight yard and terminal station from there down.

There has been some argument on the financial aspects of this question, there has been some discussion as to the relative

merits of the trade as a bargain, and as to whether the city has received what it should have received, and the Illinois Central on its part received what it should have received. Various discussions have been had as to the relative owners of lands that have been exchanged. Some gentlemen have gone so far, I understand, as to say that the strip of water given to the Illinois Central is worth nothing at all. I am not inclined to agree with that view of it. The right to fill in that particular strip of 200 feet, although it is now water, is certainly a very valuable thing commercially. It has a market value. It could be bought and sold, and when that part is filled in, you have your strip of 200 feet. It is restricted to railway purposes, I believe, under this modified ordinance, is that it, Mr. Hoyne?

MR. HOYNE: Yes.

Prof. MERRIAM: It seems to be generally conceded that it would not be a good bargain except that the Park Board does not possess the right to condemn the riparian rights of the Illinois Central Railroad. Mr. Donnersberger stated to me, and I understand that other gentlemen here have conceded, that if the Park Board possessed that power, this bargain would not be made. That is to say, if we had the power to condemn these rights, a better bargain could be made. Whatever that difference is, of course, measures in a way the loss of the city. I think the reason why the South Park Board does not have the right to condemn the riparian rights of the Illinois Central Railroad, or any other property owner along the lake shore, is quite clear. Somebody has been able to obstruct or prevent legislation in Springfield. Somebody has so far controlled the law-making process in that city as to make it impossible to give the public the rights to which they are entitled, under any fair interpretation. Now the city is asked to pay the bill. I am not in favor of paying the bill. I am not in favor of legalizing the particular advantage which has been gained by obstructing legislation in the public interests. I think the legislation could and should be obtained. The Governor of this state has said, I understand from Mr. Rosenthal, that he would call, if desired, an extra session to give the city or the Park Board the power to condemn these riparian rights; and when the power to acquire these rights by condemnation is acquired, then it seems generally to be conceded that a better bargain on the part of the city can be obtained.

I do not intend, Mr. Chairman, to discuss minor features. I do not think it is a good bargain for the city, and I think it will not tend to bring about the City Beautiful in Chicago if we permit this increase of railway and track facilities to belt and gird the south shore.

MR. BUTLER: I would like to ask Mr. Merriam about one

minor question which he has not touched on. What about the Field Museum; how can we get the Field Museum down on the lake front?

Prof. MERRIAM: I think that it would be desirable to have the Field Museum down on the lake front, but I would not be willing to pay that price for it. I think it is too much of a concession to make.

The CHAIRMAN: Is there anybody else that wants to be heard? We shall be glad to listen to those who have not been heard, if they wish to be heard at this time.

Mr. LEE: What has become of the opinion of the Chicago Title & Trust Company? We are very much interested in that, and would like to hear that before we make any further remarks.

Mr. REDFIELD: I saw it, possibly it was handed to the Mayor.

The CHAIRMAN: Has the Corporation Counsel the opinion referred to?

Mr. HOYNE: I have not seen it, Mr. Chairman.

Mr. DAMON: I spoke in favor of an early settlement of the ordinance, but I have heard that a better trade might be made, that the South Park Board might be able to secure a better trade than the one secured. I have reason to believe that the Council can get a better bargain from the Illinois Central, and for that reason I withdraw my support.

Ald. EMERSON: Mr. Redfield, you say you have seen the opinion from the Chicago Title & Trust Company?

Mr. REDFIELD: Yes, when I was in the Corporation Counsel's office this morning, I saw the opinion from the Title Guarantee Company, together with a large package of opinions of title. In substance, gentlemen, that showed that the fee was in the Illinois Central to approximately ninety per cent. of the shore lands.

Ald. EMERSON: Was this presented to this committee?

The CHAIRMAN: It will be.

Mr. HOYNE: In reference to that, I only want to say this: I was looking for Mr. Sexton. I was told he was down here at this meeting. I don't know where he is, and I have not seen those papers.

Mr. REDFIELD: He is before the Finance Committee; with the Mayor before the Finance Committee.

Mr. HOYNE: I don't suppose there is anything he could add or that I could say. I have not seen it. Was it a short opinion. Mr. Redfield?

Mr. REDFIELD: Absolutely.

Mr. HOYNE: If the Chairman wishes, I will try and get it.

Mr. REDFIELD: It certifies, my recollection is, that the road's right of way from Park Row to Fifty-first Street is so many

feet; then it certifies that for a certain number of those feet the title to the shore land is in the Illinois Central Railroad. I assume that it is a legal proposition that the riparian rights attached to the shore line.

The CHAIRMAN: Is that a guarantee policy?

Mr. REDFIELD: It is a certificate. "We do hereby certify" and so on, and so on.

Ald. DERPA: Does that certificate apply to the shore line of the government survey or the shore line after the Illinois Central got through filling in?

Mr. REDFIELD: It has nothing to do with the shore line.

The CHAIRMAN: I have no doubt the opinion will be introduced in evidence here in time for the committee to go into it, particularly as the committee will take that up as a subject matter when we meet to consider the ordinance; so we will go on with the discussion of the merits or demerits of this ordinance.

Mr. VAN VLISSINGEN: If you will be kind enough to listen to me, what I have to say is not something especially new, but rather old. Sometimes we can learn a little from past history that may serve us as a guide for future transactions. I spent a few hours this morning over at the Public Library, and I would like to read a few extracts from the newspapers at the time of the lake front settlement, which are all apropos to the present proposition (reading):

*Chicago Tribune*, October 22, 1895. Page 2.

From speech of Mayor Swift to City Council upon passing I. C. Lake Front Ordinance:

"Under this arrangement the citizens who walk along Michigan Avenue boulevard will not know there is any railroad there except by the smoke and whistles, and we hope in two years they will not see any smoke, for President Fish told me that in that time he will probably have an electrical apparatus."

ALD. MADSEN for the Ordinance:

"We are here about to see one of the most beautiful parks ever established anywhere on earth."

*Tribune*, October 18, 1895.

JOHN DUNN, Assistant to President Fish, says (referring to proposed south shore boulevard):

"That boulevard is but a visionary project, anyhow, and I do not think it will ever be realized. The men advocating it do not know what they are undertaking. The cost of protecting the shore itself, if known to the taxpayers, would stagger them. The Illinois Central has been protecting this shore for forty years now, and we know something about it. This boulevard would cost millions and is in every way an impracticable project."

This boulevard, if built, would shut the railroad off from access to the lake and utterly destroy its riparian rights. These rights the company has been buying from year to year, paying an average of \$25 a foot for them, until now it owns the entire riparian rights on the shore from Twelfth to Fiftieth Streets.



with the exception of three tracts which in the aggregate do not amount to more than 200 feet.

If the boulevard were built, these riparian rights would have to be condemned and the company paid for them, but the directors do not believe a jury would give the company even as much as it paid for them, much less put the value on them which it does.

Editorial, *Tribune*, October 15, 1895.

(Referring to driveway from Twelfth Street to Jackson Park.)

"This suggested driveway, if ever constructed, would be about five miles long. It would be constructed east of the Illinois Central tracks out in deep water. As it will have to stand the shock of winter waves and ice, it would have to be very solidly built of stout oak piles, strong iron clamps or braces, and durable rock. To perform this work so that it would not have to be repaired from year to year, like the government cribs, would cost four millions of dollars. Where is the money to come from and when will it be raised?"

"It would be pleasant if in the summer season one could drive down Michigan Avenue to Washington and Jackson Parks, and then return by way of this proposed lake driveway. But the luxury will cost lots of money. The Legislature will have to pass a law under which the South Park Commissioners can build this boulevard. The riparian rights of the Illinois Central and other shore owners will have to be condemned and large sums of bonds sold to construct it. The property owners in Lake, the western part of Hyde Park, and the western portions of South Chicago, may kick vigorously against the proposed scheme at their expense."

Chicago *Tribune*, April 1, 1908.

Editorial.

(Electrify the terminals.)

"An official of the road (Illinois Central) recently said that electricity as motive power was out of the question so far as the Illinois Central was concerned. Success elsewhere makes such conclusion impossible of acceptance. The electrification of terminals must come. The city cannot much longer permit the smoking locomotives of its many engines to defile the atmosphere."

Ald. KUNZ: I would like to ask Mr. Van Vlissingen a question.

The CHAIRMAN: Very well.

Ald. KUNZ: Are you in the real estate business, Mr. Van Vlissingen.

Mr. VAN VLISSINGEN: Yes, sir.

Mr. KUNZ: Are you a member of the Chicago Real Estate Board?

Mr. VAN VLISSINGEN: No, sir.

Ald. KUNZ: That is all.

The CHAIRMAN: Is there any one else that wishes to be heard now?

Mr. LEE: I am sorry that we did not have that opinion from the Chicago Title & Trust Company reversing the decision of the Supreme Court. I would like to say a few words.

Ald. KUNZ: Let me ask you: What business are you in?

Mr. LEE: I am editor and publisher, and also a civil engineer of Chicago.

Ald. KUNZ: Connected with what daily paper?

Mr. LEE: A weekly suburban paper in South Chicago.

Ald. KUNZ: You heard sometime ago the reference to the Illinois Steel Company's plant in corralling a lot of land through the Illinois Legislature. I believe some mention was made at that time that you were in favor of that.

Mr. LEE: Yes.

Ald. KUNZ: In favor of that acquisition?

Mr. LEE: Yes.

Mr. KUNZ: Your paper at that time favored the acquisition of that land by the Illinois Steel Company's grant?

Mr. LEE: Yes.

Ald. KUNZ: Was that the demand of the people or the demand of the Illinois Steel Company?

Mr. LEE: It was the demand of the people of South Chicago, the South Chicago Business Men's Association.

Ald. KUNZ: You traveled to Springfield to help the Illinois Steel Company to receive the grant?

Mr. LEE: I traveled to Springfield to get that legislation passed, yes.

Ald. KUNZ: You personally and your paper were very much for it and you did get a great deal of advertising in the interests of the Illinois Steel Company's grant at that time, did you not?

Mr. LEE: I don't know, there may have been some advertising that favored the proposition.

Ald. KUNZ: You favored the proposition?

Mr. LEE: Yes.

Ald. KUNZ: Did you do that gratis?

Mr. LEE: We did it gratis.

Ald. KUNZ: You received no pay at all from the Illinois Steel Company?

Mr. LEE: No, we believed that to be in the interest of the community.

Ald. KUNZ: Were your expenses paid or did you pay your own expenses traveling to Springfield and back?

Mr. LEE: Personally I had an advertising arrangement at that time—I consider that question rather an impertinent one.

Ald. KUNZ: You need not answer if you don't want to.

Mr. LEE: I will state, as far as I am concerned personally, I had an advertising arrangement at that time with the Illinois Central Railroad for exchanging advertising for transportation.

Ald. KUNZ: Will you answer my question now?

Mr. LEE: I am answering it.

Ald. KUNZ: Did the Illinois Steel Company pay any of your

expenses for traveling to Springfield and lobbying in the interests of the grant?

Mr. LEE: Not that I know of, sir.

Ald. KUNZ: You paid your own?

The CHAIRMAN: What has that got to do with this question?

Ald. KUNZ: I wanted to know. I have a right to go into that phase of it.

The CHAIRMAN: Do you wish to make any remarks, Mr. Lee?

Mr. LEE: I have found it safer to put my remarks in writing, as I find the proceedings of this committee are edited, blue-penciled, and therefore it is better to have the remarks in writing, so that there can be no question about it.

Ald. BLOCK: Who edits them?

Mr. LEE: I don't know, Ald. Block. I presume it is the official editor who blue-pencils the proceedings. I do know, however—

Ald. BLOCK: You mean the official proceedings of this committee are edited by this committee?

Mr. LEE: I don't know who edits them. I only know the result. I only know somewhere between this room and the Council Chamber and the budget, that the result as submitted to the City Council was changed. The proposed bond issue, instead of as this committee proposed, to be for harbor construction, was changed to outer harbor construction. That is one incident.

The CHAIRMAN: What has that to do with this subject matter that is now under discussion?

Mr. LEE: That was in answer to the Alderman's question.

The CHAIRMAN: I assume you have an idea there is some prejudice shown here by the committee on what has been handed in.

Mr. LEE: There has been some blue-penciling in the past.

The CHAIRMAN: We are talking about this matter under discussion now. What the newspapers print about what is going on here is none of my business or your business.

Mr. LEE: No. Shall I proceed, Mr. Chairman?

The CHAIRMAN: Yes.

Mr. LEE: Very well, I will proceed (reading):

ADDRESS OF HENRY W. LEE BEFORE CITY COUNCIL COMMITTEE ON HARBORS, WHARVES AND BRIDGES, FEBRUARY 2, 1912.

If the elected and appointed officials of the people were sincere in their expressed desire to build an outer boulevard along the lake shore, they would welcome the information received here that the Supreme Court of the United States finds that the title to this land now is in the State of Illinois and that the railroad has no riparian rights there. They would welcome this opportunity to start their Chicago Beautiful plans at once, without asking permission from the railroad that has no shore rights. When we

see them continuing their efforts to brazen out the contract which would double the smoke nuisance, we are forced to the opinion that the chief purpose of this project is not Chicago Beautiful, but the other features of the contract which involve the deeding to the Illinois Central Railroad of 162 acres of land to be used for railroad purposes or sold, presumably to the Chicago Junction Railroad, controlled by the packing interests, who are so ably represented upon the South Park Board.

And the plan dates back some years to the time when the right of condemnation was denied the South Park Board, although that right was given to the Lincoln Park Board. It will therefore be cheerful news to the South Park Board that they need fear no opposition from the railroad in their public-spirited plans for Chicago Beautiful, it will relieve them greatly to learn that the right of condemnation is not necessary in the case of the Illinois Central that has no shore rights, and to which the State Legislature could not grant riparian rights if it wanted to, these rights being inalienable and held in trust for the people for purposes of navigation and fisheries. This is the decision of the U. S. Supreme Court, as we have learned. The board may therefore start to build its outer boulevard today with as much impunity as a man can build a fence on his own lot without asking the consent of his next door neighbor.

We do not believe that any law suit is necessary, nor any delay. It is unfortunate that the appointed and elected officials of the people, instead of accepting the decisions of the U. S. Supreme Court and the opinions of the Attorney General of the State, and State's Attorney of Cook County, the Corporation Counsel of Chicago and other learned counsel, who say that the I. C. R. R. has illegally filled in land along its entire right of way between Fifty-first and Sixteenth Streets, and that title to this shore land is in the State and not in the railroad—instead of accepting this, we find the officials who should fight for the rights of the people, fighting against them and bringing in here a so-called certificate of title from a concern that is willing to make a wager upon the proposition (no doubt for suitable consideration) and that has the infinitely ridiculous effrontery to set up its opinion against that of the highest tribunal in the land and reverse the decisions of the Supreme Court.

We believe this case can be settled out of court and rightly and soon. The city and South Park Board appear to be both represented by a single law firm, and there should be little friction between the South Park Board and the Chicago Junction, the packers' railroad, as we find the president of the board and the attorney for the railroad to be one and the same man, John Barton Payne. An interesting parallel to that other case of dual representation disclosed the other day, that Dr. Jekyll and Mr. Hyde who represented the people on one side and denied the railroad shore rights, and on the other hand in his capacity as alderman and member of this committee, was the most active go-between, rushing from the Mayor's office to this room in tremendous haste to have this committee pass this infamous measure, section by section, as fast as the tentative agreement could be type-written upstairs—this chairman of the Lake Shore Reclamation Commission, evidently formed for the exclusive benefit of the Illinois Central and Chicago Junction Railroads.

This stake is worth paying for, Mr. Chairman. It is twenty millions,—some say a hundred millions worth of public lands. It is a project that would put to shame the greatest exploit of Capt. Kidd or any other adventurer of the Spanish main. Why it even approaches in magnitude the Panama Canal, and far transcends our own drainage canal in value.

With this infamous bargain consummated, the people would be shut off from the lake front forever by an impenetrable barrier of smoke, soot and railroad tracks. The I. C. would be entrenched forever on its present illegal holdings, which would be doubled. As this is evidently the main purpose of the deal, it is doubtful if the people would ever get the outer boulevard, which these vested interests say is at stake, but which they know can be started tomorrow without any condemnation or other legal proceedings.

I entered this fight to save the proceeds of the bond issue of 1907,

authorized for the purpose of buying and equipping small parks in the Calumet region. I did not want this money dumped into Lake Michigan. I stayed in the fight when I discovered a conspiracy to steal millions of dollars worth of public lands, under the guise of City Beautiful, Field Museum, widening of Twelfth Street, danger of delay, future of our fair city, and other side issues and incidentals which these gentlemen are urging, these citizens of high standing in our community that are allowing themselves to be used as cats' paws to pull these valuable chestnuts out of the fire for the railroads, the result of which will be to ruin the lake front forever instead of beautifying it, as falsely claimed.

The Illinois Central will not dare oppose the immediate construction of the outer boulevard. I am glad after all that this thing came up. We have learned that the railroad does not even own its present right of way. The Chipperfield Report says that it is a trespasser. And I hope you will again read page 183 of that document. Instead of getting double its present roadway, the Illinois Central will be lucky to retain what it now holds. The city is in a position, if our representatives will prove faithful to their trust, to compel the Illinois Central to immediately electrify and depress its tracks. Then we will have access to the lake. Then we will have a decent approach to a real parkway without any smoke, or soot, or nuisance. Then at last Chicago will come into enjoyment of Lake Michigan, hitherto the most secluded large body of water in the world, and to all intents and purposes the exclusive property of the Illinois Central. Then we will have a real Chicago Beautiful, one not purchased at the price of municipal dishonor. This ordinance should be placed on file. No amendments should be considered. The entire proposition is an insult to decent citizenship and to the intelligence of this committee.

Ald. KUNZ: Now, Mr. Lee, another question. You stated a great deal about the Chipperfield Report. Would you consider the sentiments expressed in the Chipperfield Report as good legal authority?

Mr. LEE: I should say yes, Mr. Alderman. I studied the Chipperfield Report very thoroughly. It is an exhaustive document in several volumes.

Ald. KUNZ: Why would you consider it good legal authority?

Mr. LEE: I will tell you; I have looked into it very thoroughly, and it shows an exhaustive study of the situation. There were a number of lawyers on the committee, and it was prepared at the instruction of the State Legislature and by their authority. It has been received by the State Legislature, as Mr. Comerford told you, and I consider the Chipperfield Report at the present time—of course, always excepting the decisions of the courts—I consider it the highest possible authority on the case in point.

Ald. KUNZ: Now, in case the Legislature will receive a report on the committee, that committee might err in its report.

Mr. LEE: Certainly.

Ald. KUNZ: Are you an authority on law to know whether the report and the legal points raised, whether they would be constitutional or not?

Mr. LEE: I am not a lawyer.

Ald. KUNZ: The reason I asked you whether you thought

it was a good report, whether the report was based on legal authority, you said they were.

Mr. LEE: That is my opinion.

Ald. KUNZ: So far as you know?

Mr. LEE: Yes, so far as I know.

Mr. STANLEY FIELD: In reference to this Illinois Steel Company's land, the 200 acres filled in, I understand that the report on that was exactly the same as on the Illinois Central. What do you think of it in that connection? You expressed such admiration for it.

Mr. LEE: I have not read that portion of the report.

Mr. FIELD: Then you did not take the trouble to look it up?

Mr. LEE: The report was not in existence at that time.

Mr. FIELD: You did not look it up?

Mr. LEE: It was not in existence.

Mr. FIELD: In other words, it depends on whose ox is to be gored.

Mr. LEE: Not at all.

Mr. FIELD: You went to Springfield for the 200-acre grant of the Illinois Steel Company, and the report on that is the same as on the Illinois Central.

Mr. HERON: Mr. Lee, are the people in the neighborhood where you publish a newspaper in favor of a five-cent fare, providing this ordinance does go through, this agreement?

Mr. LEE: The people in the neighborhood that you refer to, that is, in South Chicago, and also in the Pullman and Roseland district, have both presented petitions to this committee and are on record as absolutely opposed to this proposition. They have not touched on the five-cent fare question at all.

Mr. HERON: Isn't it true that the newspapers of your vicinity have written editorials commenting upon the fact that this matter had been brought up about the five-cent fare, and spoke of it, that it should be acted on by all business men?

Mr. LEE: In this connection?

Mr. HERON: Yes.

Mr. LEE: Not that I know of.

The CHAIRMAN: Is there anyone else present that wishes to be heard?

Mr. COMERFORD: I want to make one observation in leaving the committee, and that is touching upon the certificate of the Chicago Title & Trust Company. The certificate in question does not certify to anything that will throw any light on the questions raised here by myself and others opposing the ordinance.

Ald. KUNZ: How do you know? Did you see it?

Mr. COMERFORD: I can say that by my general knowledge of the certificates issued by the Title & Trust Company.

Ald. KUNZ: That is for the committee to judge.

Mr. COMERFORD: If I may be permitted to make a statement and call the committee's attention to that feature of it, that the proposed proposition raised here questioning the Illinois Central's title or right to riparian rights along the right of way between Fifty-first and Park Row, or Twelfth Street, is a proposition that the Law Department of the City of Chicago will have to pass upon, the Title & Trust Company will merely pass upon the question of fee.

Mr. REDFIELD: You are absolutely right on that score. This is merely a question of record title.

Mr. COMERFORD: That is it.

Mr. HOYNE: There will be no difference among any of the lawyers here, so far as the questions that have been discussed here concern that certificate. If it is any different from the ordinary certificate I shall be greatly surprised. I agree with Mr. Redfield and Mr. Comerford. That certificate, you will find when you look at it, will not assume to pass on riparian rights. They will merely say this, that the Illinois Central Railroad Company has acquired the fee in the land over which they have the right of way, and it won't say anything more on it.

Mr. COMERFORD: Mr. Hoyne has very well stated what was in my mind and what I intended to state. The reason I make the statement at this time is simply this: The newspaper accounts of the certificate of title recently circulated through this community have given the majority of the lay members of the community the opinion that the legal objections raised by those opposing the ordinance have been entirely cured and satisfied by an expression of opinion from that expert source known as the Title & Trust Company; it following, no doubt, that they, having made an exhaustive examination of title and passing upon the matters, those who had opposed would have been, so to speak, driven out of court. It was agreed to ask the committee to speak to the Corporation Counsel's office for an opinion on the following propositions. First, we were to ask the committee to ask the Corporation Counsel's office of the City of Chicago to advise the committee whether or not the Illinois Central could ever have riparian rights to any property that it holds under the State grant by limitation and expression in Section 3 of this charter. The courts have held that the Illinois Central merely has the title of licensee. Second, to ask the committee to ask the Corporation Counsel for an opinion on the proposition whether, even if the Illinois Central owned the fee to the property that was in contact with the lake at one time, and as a consequence had riparian rights, if subsequently the Illinois Central Railroad having by trespass and encroachment filled in submerged land belonging to the State, so that by

wrongful act it destroyed its contact with the lake, whether or not that act of trespass and encroachment which destroys one of the necessary requirements to riparian rights, does not cut off its riparian rights to even the land to which at one time it had riparian rights.

I want to be very fair to the committee. I have indulged myself in a discussion of some of the features of this matter, and have on one or two occasions read from some of its findings. I want to say, Alderman Kunz, that while the facts upon which the Chipperfield Report is based may or may not be erroneous, the only fundamental proposition is this: that the Illinois Legislature, crooked or straight, representative or unrepresentative of the people of Illinois, under our scheme of political local government, represents the public policy of the State of Illinois, and when its committee in its name makes a report, and that report is not only received but approved, it raises a presumption that that is the public policy of this State. Until that presumption is affirmatively repealed by subsequent legislation, or until that assumption is disturbed by the introduction of new facts, our position here has merely been, first, that the Illinois Central Railroad Company does not possess riparian rights, if the facts stated in the Chipperfield Report are true, and in the absence of truth to the contrary, that presumption prevails; and, second, as a legal proposition, that as a licensee holding its property under the grant of the State, it could never have riparian rights, and in such instances as it purchased shore land, and by encroachment and trespass developed the submerged land of the State into its own private property, it removed itself, and destroyed and forfeited by its own wrongful act its own riparian rights.

I am not saying that the Chipperfield Report is based on facts. I had a conversation with the gentleman who was appointed by the State to carry on the litigation, Mr. Holt. And Mr. Holt told me that after exhaustive investigation of the Chipperfield Report, he found in some instances he could not get the committee to substantiate by facts some of the findings. I am perfectly fair to the committee in stating that it is merely the public policy of this State until we know to the contrary, and I want to urge again upon the committee one proposition, and that is that the man who opposes this proposed contract, and opposes this ordinance at this time, does not necessarily stand in the way of a City Beautiful, does not come here in an effort to assault or assail the gentlemen who, as representative business men in this community, have given their time and probably their money to what they believe, probably sincerely and honestly, is a good and valuable improvement to the City of Chicago; and we do state that in view of the facts presented,



until they are contraverted, there is no more room to dispute, as has been suggested here, that this plan proposed will make a City Beautiful; but so far as the people living in the congested districts—I have lived on the West Side all of my life—I know it to be a fact that if you have an outer boulevard system, with, say, 500 or 600 feet of right of way of the Illinois Central—I don't know mathematically what the engineer would compute to be the difference over the viaduct—there are very few people in the congested districts that at the time they can enjoy it, viz: in the evening when the day's work is done, who will venture to go to that portion of the city and cross over this large, long viaduct with engines and smoke and soot, unless it is remarkably well-protected in a police sense.

Another observation, and I am finished, and that is this: Someone has remarked here that litigation is dangerous to public improvements, that the long trial and expenses and the time in getting through the courts to define matters, stand in the way of giving the people the enjoyment of privileges and benefits that they might otherwise have. Yet I want to say that in the event you pass this ordinance at this time, and no provision is made for electrification of the Illinois Central terminals in the City of Chicago,—that the Council under its police power can force electrification, when you do attempt in the name of the city to force them to electrify, that you will find the Illinois Central will contest every inch of the order to every court in the land to determine exactly your authority, your police power, and every technical as well as substantive objection that can be made, will be used by the Illinois Central. Therefore, I urge upon you here and now, in the contemplation of a City Beautiful, to insist upon the surrender of what ultimately they may use in the way of objection and litigation. The moral proposition, I think, is as large as any, and that is that the Illinois Central is not in exactly the best position to come before the City Council at this time in evasion of the law passed by the Legislature of the State of Illinois granting to the Park Board merely the right of condemnation so far as *sui generis* property owners and unknown property owners were concerned. I do believe that the power that prevented the committee from getting from the Legislature the right of condemnation in that statute for the Park Board so far as the Illinois Central was concerned, I think that power was a corrupt power and was used directly against the people. Some may argue that the moral question is of little consequence. I might remind some of you gentlemen that the people of this State have in the past spent thousands and thousands of dollars merely fighting on moral lines, and as was referred to, on another occasion, the Mayor of this city spent considerable time, and effectively too, and

established himself as a political factor, winning the confidence of the people of this State, because he refused to compromise until certain propositions were clearly established; in other words, until the integrity of this community as a free community to act as a free agent, was established, and the Allen law was stricken from the statute books of this State. The proposition of jackpotism, so-called, is another issue upon which the people of this State have spent a large amount of money, and are going to spend much more money; and as I stated the other day, I believe a City Beautiful that is purely a superficial City Beautiful, that is based upon the sacrifice of the people in their willingness to acquiesce in any concession, is on its face corruption and is a step backwards, a step so far backwards, that men in this council, I am perfectly satisfied, are not willing to make that step at this time.

I thank you, gentlemen, for your consideration.

Mr. BUTLER: I did not mean to say another word, but I want Mr. Comerford to understand that I am not angry, and I want to say again to these gentlemen that in endeavoring to get this bill at Springfield, it was the Merchant's Club of Chicago. The Merchant's Club has now become a part of the Commercial Club. The Merchant's Club of Chicago had a pretty good name. It had a good name in this council, it had a good name at Springfield, and I am sure no man in this city will question their efforts or their means of securing a bill. I want to say that the Illinois Central had nothing to do with securing this bill, and I want to say again that after securing this bill which, as Mr. Lee says, he calls it record time to get through, that after that we were for four years trying to get the Illinois Central to trade on it, under this bill. It was only when the present president, Mr. Markham, came to this city that we found a man with whom we could trade. Now, what is the use of keeping on here making charges and counter charges? I want to say another thing, that it seems to me that if the Illinois Central is shown to own the fee to the shore line, that there is no question then about their riparian rights, because riparian rights go with the shore line or ownership.

I want to say another thing, that isn't it well to leave out these legal entanglements, these confusing statements of the lawyers here, and submit them to the court, because this question, this trade, has to be approved by a majority of the Circuit Court, and into that court can come any taxpayer and protest and he will be heard, and it seems to me a court is a pretty good place to decide these legal questions. We here cannot decide them.

I beg your pardon, gentlemen, I did not mean to say anything, but I had to.

Mr. ROSENTHAL: I rise, gentlemen, for the purpose of presenting a few additional matters that have come to our notice since the last hearing, and I do not want to trespass on your time. At the same time I want to express my appreciation for the consideration that has been given to this matter, and I do feel like saying, without wanting to oppose Mr. Lee's views, that I cannot share his opinion, that there is not any attempt at any time to rush this matter through the committee. In fact, the moment the suggestion was made that the consideration of this matter be postponed, and an opportunity be given for men to express their views and bring in all the evidence, etc., there seemed to be a readiness on the part of everybody to give it, and those who share my views are really extremely thankful for that. Now, I do not think that personalities will help this matter any, because if we are going to decide it, it will eventually have to be decided strictly on its merits, whatever may be the opinion that may be held by anyone at the present time, whether it be a newspaper or individual. I am satisfied that if this thing is settled right, and I believe that this committee will settle it rightly in time, you will receive the plaudits of the people. We cannot always be influenced by any settlement that has been made at the present time or is being made. Since the last hearing, my attention has been called to a case that is now pending in the Supreme Court of the United States for the Northern District of Illinois, Eastern Division, entitled: "Samuel H. Bowman vs. City of Chicago, Illinois Central Railroad Company, and others." This is a bill to establish title to part of the Illinois Central right of way from Congress Street north to the river and part of the lake front park immediately west of the said right of way.

The CHAIRMAN: Mr. Rosenthal, will you please repeat that statement about the case?

Mr. ROSENTHAL: It reads as follows (reading): "This is a bill to establish title to part of the Illinois Central right of way from Congress Street north to the river and part of the lake front park immediately west of the said right of way."

Mr. REDFIELD: Is that part of Grant Park?

Mr. ROSENTHAL: Yes, sir, it is.

Mr. REDFIELD: That case has been pending how long?

Mr. ROSENTHAL: I think, eight years.

Mr. REDFIELD: I know that four or five lawyers have died in the meantime. I will say, for the benefit of this committee, that your Corporation Counsel is entirely familiar with this case, and he took entire charge of it in the last two years. He is about the only man really conversant with the facts in the case.

Mr. ROSENTHAL: I appreciate what you say, but I think

that the reason this case is of value at the present time is because it has in it the testimony under oath of certain gentlemen familiar with real estate values, who seem to know something, at any rate, about the value of property for real estate purposes, and since the opinions that have been presented have been assailed and sport made of them, and we have been told that our value of \$17,000,000 has been excessive, and that it is only \$4,800,000 and not \$17,000,000, let me read you just a patch or two from the evidence.

Ald. LONG: Has that case been decided?

Mr. ROSENTHAL: No.

Mr. REDFIELD: It probably will not be for the next twenty years. Aren't the values testified as to land north?

Mr. ROSENTHAL: Yes.

Mr. REDFIELD: Why are you so disturbed about this case?

Mr. ROSENTHAL: I will go ahead and read this case now:

IN THE CIRCUIT COURT OF THE UNITED STATES.  
NORTHERN DISTRICT OF ILLINOIS.  
EASTERN DIVISION.

SAMUEL H. BOWMAN

*vs.*

CITY OF CHICAGO.

ILLINOIS CENTRAL RAILROAD CO. ET AL.

} In Equity. No. 29064.

This is a bill to establish title to part of the Illinois Central right of way from Congress Street north to the river and part of the Lake Front Park immediately west of said right of way.

Evidence has been introduced before Master in Chancery Bishop.

ABSTRACT.

*Edward P. Skene*, a witness for defendants, testified as follows (beginning at page 1474 of transcript of evidence):

I have been Land Commissioner of the Illinois Central Railroad Company since 1890. I know the fair, reasonable market value of the land occupied by the Illinois Central as shown by Exhibit "E" of defendant's answer.

"Q. What do you say is the fair, reasonable market value of the land as shown by Exhibit E of defendant's answer, per acre, as the right of way of the Illinois Central Railroad Company and land of the South Park Commission, included within the lines of said alleged survey as they appear on Exhibit E of said answer?"

Mr. BUTLER: Now, bear in mind before getting to the answer, that the witness has asked not only about the land which is strictly railroad land, but the land immediately adjacent thereto, which may be used for the purposes of a railroad and is now part of the public domain. "About \$1,600,000 per acre, on an average."

\$1,600,000 per acre, a calculation of that is \$36.73 a square foot.

Ald. LONG: I would like to identify that land. Is that the land in the present Grant Park?

Mr. ROSENTHAL: Between Congress Street, and from Congress Street north to the river.

Ald. LONG: Including the right of way to Grant Park?

Mr. ROSENTHAL: Part of Grant Park. Now, I will read the cross-examination by Judge A. N. Waterman (reading):

CROSS-EXAMINATION.

By Judge A. N. Waterman.

Page 1483.

"Q. Now you have made a statement as to what you consider the value of the land, the value per acre of the land within the limits of the Talcott Survey which is claimed by the Illinois Central, I think."

"A. Yes, sir."

"Q. I think your estimate was one million, six hundred thousand dollars?"

"A. One million six hundred thousand dollars on the average."

"Q. What do you take into consideration in arriving at that estimate?"

"A. I take into consideration what land has sold for on Michigan Avenue, and what it has been leased for, and then I give a fair increase in that as to what the land is worth further east, that the railroad is on today."

Page 1491:

"Q. Now in giving this estimate of one million, six hundred thousand dollars per acre for the land, for what purpose do you make that estimate, for hotels or for private residences, or for what?"

"A. For railroad purposes."

"Q. Well, you say for railroad purposes, do you mean for railroad purposes generally, or have you any particular railroad in mind?"

"A. For the Illinois Central Railroad."

Page 1491:

"Q. In making this estimate of one million, six hundred thousand dollars per acre, do you take into consideration anything but the bare land?"

"A. Nothing but the bare land."

*Frank B. Harriman*, a witness for defendant:

"I am general manager of the Illinois Central."

Page 1602:

"Q. Do you know approximately the value of this terminal at Randolph Street?"

"A. No, I have no information."

"Q. What would it run into?"

"A. Well, it would run into quite a number of millions; a small part of it was leased to the Wisconsin Central upon a valuation of \$1,800,000.00"

"Q. Was that valuation for the purpose of selling?"

"A. No, that was a valuation on which the rental was based."

*Albert H. Wetten*, a witness for defendant, testified he was President of the Chicago Real Estate Board and was familiar with values in the location in question.

He gave \$30.00 per square foot as the value of that part of the right of way of the Illinois Central which was involved in the suit. He stated this value was based on the value of property in the vicinity. (P. 1930.)

Page 1964:

"Q. A strip such as that equipped for railroad purposes, with tracks thereon and other necessary facilities for railroad purposes, would be worth more than just the market value of naked property?"

"A. I should say many times more."

Mr. ROSENTHAL: Now, there is another case, that of the Lake Shore & Michigan Southern Railroad Company against the Chicago & Western Indiana Railroad Company, in the 100th Illinois, page 21. This case has been referred to a great many times:

L. S. & M. S. RY. CO. ET AL. V. C. & W. I. R. R. CO., 100 ILL. 21.

This was a petition to condemn a strip of land running across the tracks of defendant company. On the question of damages the court said:

"While some witnesses were permitted to state that the two blocks has a special adaptability to railroad use, it appears that no one was permitted to make any estimate as to its value with regard to such use. The ordinary rule as to stating the market value would not seem to apply here. In its situation the land was not available for use for general and ordinary purposes. It could not be said to have any market value as such property that it was. It was devoted to a special use, and the most valuable use to which it could be applied, as shown by the evidence, was that special use of making railroad transfers; and estimates of its value with reference to such use, by those competent to speak in that regard, should have been received. See *I. and W. R. R. Co. v. Von Horn*, 18 Ill. 258.

As expressed by Welles, J., in *Beckett v. The Midland Railway Co.*, R. 3 C. P. 82: 'The property is to be *taken in statu quo*, and to be considered with reference to the use to which any owner might put it in its then condition.'

Mr. ROSENTHAL: I think it is a complete answer to the argument that was made here, that in estimating the value, we have only got to consider this land as typical to its ordinary use, and not to the best use to which it might be put. But there is another criterion, Mr. Chairman, which has been mentioned here several times, and that is the leases of the Illinois Central Railroad Company. I don't know, Mr. Chairman, whether anyone has produced those leases. Might I ask the question?

The CHAIRMAN: There has been nothing said about the leases, Mr. Rosenthal, at all. There has been nothing presented to the committee about the value of leases, or about any leases that might exist.

Mr. ROSENTHAL: I want to read the committee a letter that has been sent, and a copy of which was handed to me by Mr. Alex. J. W. Copelin, under date of January 31, 1912. It is as follows:

"The Illinois Central Railroad placed in 1850 or 1854, at a very great expense, a break-water pier from Park Row south to about Fiftieth Street, for the protection of their road bed, and have possibly expended large sums of money to keep the break-water in repair. At the present time a large proportion of the piles are beyond repair, so that the railroad company will, in the near future, be compelled to put in repair the break-water from Twelfth Street to Fifty-first Street. The cost of this work will nearly equal the value of the present depot site. If the South Park Commissioners want a driveway and a park east of the Illinois Central right of way extended, the public will have to pay the entire cost of protecting the driveway, and it is well known that the cost of protecting the shore has been one of the

greatest items of expense to the people. Still, the shore protection is only about three miles, the protection for the new driveway will nearly equal six miles. The wall or break-water near the shore line when built was in water from 3 to 6 feet deep. The new break-water will be in water about from 12 to 15 feet deep, making the cost very much greater. This, I think, is the greatest objection to the exchange. If the Illinois Central Railroad should be compelled to pay this expense for protection, the proposition would be more nearly equitable.

Yours truly,  
ALEXANDER J. W. COPELIN."

Mr. ROSENTHAL: Now, I do not know whether those of you who saw the *News* of last Wednesday evening, happened to see a memorandum of the discussion of Mr. L. C. Fritch of the Great Western Railroad, Lloyd C. Fritch, Chief Engineer of the Great Western Railroad, who made an address before the members of the Electrical Club at noon the other day. I understand that Mr. Fritch is a man of very high rank, and one of the gentlemen who is in this room is a member of the Chicago Great Western Board, and I believe every statement that was made, he will agree with me that Mr. Fritch's opinions have value, and that he has been investigating this particular subject.

I called up Mr. Fritch and asked him whether he was accurately quoted, and he told me that he was, and left with me also a memorandum. He sent me this morning the memorandum. I asked him whether I might have them. He spoke about the question of the terminal facilities in the City of Chicago, and the trouble is this problem is not studied as an independent problem, but must be considered in connection with a great many other matters that we have, and one of the most important questions that we have at the present time is whether or not, aside from all other considerations, it has the right to build large railroad rights in the center of the city. May I be permitted, Mr. Chairman, just to read a few sentences from this article.

The CHAIRMAN: Yes.

Mr. ROSENTHAL (reading):

(Extract from *The Chicago Daily News*, Wednesday, January 31, 1912.)

SEES MILLIONS SAVED IN RAIL TERMINAL PLAN.

L. C. Fritch of Great Western Road Urges Scheme Before  
The Electric Club.

WOULD FREE MUCH LAND.

Group Passenger and Freight Stations to Do Away with Many  
Yards; Make Electrification Easy.

CHICAGO RAILROADS AND THEIR TERMINALS.

What Terminal Systems Need.

(As defined by L. C. Fritch)

General revision to cost millions.

Assured uniform system of electrification.

Concentration of all passenger terminals in a group of five stations at  
Twelfth Street.

Sub-terminal system for freight traffic.

*Facts About Rail Terminals.*

At the present rate the railroads will own the whole business district  
in twenty-five years.

Freight yards now occupy half of this district.

Cars are now standing on land valued at \$20,000 for the space occupied  
by one car.

Sub-terminal system would take two-thirds of the interchange traffic  
outside the congested district.

Land down town worth millions of dollars could be saved to Chicago's  
business interests and the electrification of all roads made easily possible,  
according to plans advocated by Louis C. Fritch, Chief Engineer of the  
Chicago Great Western Railroad, who spoke before members of the Electric  
Club at noon today. Millions would be spent on changes in Chicago's rail-  
way terminal systems, according to Mr. Fritch, but the result would be  
worth more than the expenditure.

"Extensive changes in terminal facilities of railroads running into Chi-  
cago must precede the electrification movement," said Mr. Fritch. "At present  
the railroads feel the situation is too shaky to permit the large expenditure  
of money in electrifying, with the possibility of future revision of the  
terminal system and the consequent sacrifice of time and money."

Mr. Fritch stated in emphatic words the exact position of the railroads  
in regard to the suggested improvement and declared that terminal revision  
is of more importance to Chicago than electrification.

CHANGE IN SYSTEM FIRST.

"We have a large, scattered, untidy and uneconomical system," he declared.  
"The change must come and the sooner the better. This is a question that  
must be met before electrification is considered. Suppose the railroads  
invested heavily in electrical equipment and then were required to change  
their whole terminal systems. You can see what a costly error that would  
be."

Here are the terminal improvements suggested by Mr. Fritch:

For passenger terminals—Substitute for the present system a group of  
stations, say, at Twelfth Street. Five stations should be sufficient to  
accommodate all the traffic coming into Chicago on all the roads.

For freight traffic—Discard the present highly wasteful system whereby  
half of the business district of Chicago is occupied by freight yards of



railroads. Establish either one union station, where all the freight will be handled, or, better, institute a system of sub-stations in various parts of the city. Some of these stations would be for the use of more than one road—in fact, wherever practicable.

#### GROUP SYSTEM MOST ECONOMICAL.

"I suggest the group system for passenger terminals as the most convenient and most economical system," continued Mr. Fritch. "Five stations would handle all the traffic with ease. The stations would be in close proximity to each other so that interchange would be an easy affair.

"Our present method of handling freight in Chicago is wasteful in the extreme. In the interchange from one road to another approximately 10,000 cars are hauled into the city and out again every day. Half of our business district is occupied by railroad freight yards. There are freight cars now standing on property which is valued at \$20,000, for just the space occupied by one car. By instituting the sub-station system it would make it unnecessary to bring these cars into such valuable territory.

"I estimate that we could occupy land one twentieth of the value of land now occupied in this way and not lose any facility in making interchanges of freight from one road to another.

"If the railroads continued increasing their holdings in the shape of freight yards for the next twenty-five years the way they have in the past twenty-five, they would own the entire business district of Chicago."

"With our passenger terminals grouped at one spot, and our freight interchanges to the extent of 10,000 cars a day reduced to one-third of that number in the congested district by instituting the sub-station system, we can begin to consider the question of electrification," continued Mr. Fritch. "Here comes a question which must be definitely and fully decided by the electric people.

#### UNIFORM SYSTEM NECESSARY.

"Before the railroads of Chicago can consider electrifying at their terminal points, they will have to be assured of a uniform system of electrification. By this I mean that all of the roads must be equipped in the same way—with the same style of equipment. Our traffic interchange demands this. The engines of one road must run into the stations of the other roads to make these interchanges. The only way this can be done is through uniformity of equipment. This equipment is furnished by the electrical companies.

"The electrical companies must get together instead of fighting among themselves, and decide on the best system. Then all of the railroads must use this system. This is the only condition under which electrification is possible. Westinghouse and the General Electric Companies are fighting. They must quit fighting and work together to do business with the railroads running into Chicago."

Mr. ROSENTHAL: Now, my attention was called by a member of the Lincoln Park Commissioners to this proposition, that is what he mentioned out here the other day. I said I did not know that the South Park Commissioners were right after all in operating simply under the Act of 1907, and I inquired whether any investigation had been made, to see whether there were any other Acts under which they could proceed, and under which they could condemn these riparian rights. I stated at that time I had not had time personally to investigate it. In a letter I received from that member this morning, he called my attention to the Act of June 15, 1905, an Act to enable park

commissioners having control of any park, to enlarge the same from time to time, and granting submerged land for purposes of such enlargement, and to defray the cost thereof, and to make a connecting boulevard. In Section 2 of that Act it provides as follows:

"The riparian rights of the owner of land along the lake shore adjoining such submerged land, and such land along said shore, as the said Board shall consider necessary and desirable, the said Board of Commissioners may acquire the contracts, with or without deeds from any such owner, and in case——"

Mr. ROSENTHAL: Now, this is the second part which was cut out of the Illinois Central Act (reading):

"And in case of inability to agree with any such owner, proceedings may be had to condemn such rights to such land according to the provisions of Article 9 of an Act, etc."

Mr. REDFIELD: Will you please read the first section again.

Mr. ROSENTHAL: You mean the title of it?

Mr. REDFIELD: The title to the first section.

Mr. ROSENTHAL: It is as follows:

"An Act to enable the park commissioners having control of any park bordering upon public waters in this State, to enlarge the same from time to time, and granting submerged lands for the purposes of such enlargement, and to defray the cost thereof."

Mr. REDFIELD: The title of that Act does not refer to the riparian rights.

Mr. ROSENTHAL: Doesn't that come within the title? I will read it again (reading).

Mr. ROSENTHAL: I don't know whether you have given an opinion on that. If you have we ought to know it.

Mr. REDFIELD: Mr. Frank Hamlin, Attorney for the Park Board, stated within forty-eight hours that there was no such power, that he had assumed that there was, and he had looked it up, and he had come to the conclusion that there absolutely was no power in the South Park Commissioners to condemn the riparian rights.

Mr. ROSENTHAL: Have you given an opinion to that effect?

Mr. REDFIELD: I could not tell you whether I had or not.

Mr. ROSENTHAL: Have you made a legal investigation and given an opinion?

Mr. REDFIELD: I cannot tell you.

Mr. BUTLER: I can say that the Merchants' Club had an opinion.

Mr. ROSENTHAL: From whom?

Mr. BUTLER: A member and an attorney.

Mr. REDFIELD: Do you wish this committee to understand that we now have the right to condemn the riparian rights?

Mr. ROSENTHAL: I think the statement I made will bear out the position I have taken. I will state it again. I said here that we had not been advised whether the South Park Commissioners had power to proceed under any other Act, nor whether any efforts had been made to proceed under any other Act, and I also stated the fact that the Commissioner of Lincoln Park called my attention this morning to these Acts, to which I now want to call the attention of the committee. I have not given a legal opinion on it, and I have not examined the Acts closely enough to know it, and it seems also, Mr. Redfield, that you have not, and that is an unfortunate position for the public to be in.

Mr. REDFIELD: I do not agree with you, Mr. Rosenthal.

The CHAIRMAN: May I ask you to give that title again. It is very short.

Mr. ROSENTHAL: It is as follows (reading):

"An Act to enable park commissioners having control of any park bordering upon public waters in this State, to enlarge the same from time to time, and granting submerged lands for purposes of such enlargement, and to defray the cost thereof."

This Act speaks of boulevards and driveways. Then there is an amendment to this Act, approved May 14, 1903, which reads:

"The riparian rights of the owners of land along the shore adjoining such submerged lands, and such land along the shore as to said Board shall seem necessary and desirable, the said Board of Commissioners may acquire by contract with or without deed from any such owner, and in case of inability to agree with any such owners, proceedings may be had to condemn such rights to such lands, according to the provisions of Article 9 of the Act, etc."

Mr. ROSENTHAL: Then there is the Act of May 14, 1903, an Act to provide for the enlargement and extension of parks, which provides that in all cases where a public park within specified boundaries fronting on the shore of the lake, lies in two towns, and where the commissioners of such parks have been named in the Act, etc., that proceedings may be had, etc.

Now, I have no means of knowing whether any such investigation has been made, or what investigation has been made; whether any attempt has been made to proceed under any of these park Acts; but what I do wish to say is that, if that attempt has been made, we might have had a different sort of a contract here; and if we cannot get by bargain the sort of contract that we want, my idea as the only way to proceed is to condemn; and the best answer that has been given here to the question of the Field Museum, which has been used here for the purposes of overshadowing this whole proposition, is whether the people can afford to pay the price; and I want to

say that we can discuss this matter a good many times, a good many of us are opposed to this, and we have come to the deliberate conclusion, and we will adhere to that conclusion, after having considered it again for several days, that we cannot afford to pay that price; not only on moral grounds, and those to me alone will be sufficient, but on both legal and just grounds to the people. We cannot justify this thing. We cannot justify the placing of the Field Museum in the central part of Chicago for the purpose of giving the Illinois Central this great railroad yard, which will constitute in the course of time a greater nuisance than it is today.

Mr. OLIVER: When were Mr. Wetten's valuations made?

Mr. ROSENTHAL: I think they were made two years ago. To-day they will probably be higher.

Mr. OLIVER: I think Mr. Rosenthal has made a very unfair comparison when he attempts to take a valuation made by a member of the Chicago Real Estate Board, whose ability to judge we all believe in. He has attempted to state that against the valuation of the Board with the reflection on the Board's valuation. It is just about as fair for you to compare the value at Congress Street, gentlemen, with the average value that the Real Estate Board puts on it, as it is to compare a value at Randolph and State Streets with a proposed value over at Chicago Avenue and State Street; just about. As to railroad values which have been harped on so much before this committee, I just want to say I would like very much to have Mr. Rosenthal throw a little light on what railroad values are. I had the personal experience of testifying for the people in behalf of the Sanitary District in a condemnation case, of a strip of land for the Pennsylvania Railroad's right of way, and I remember at the time the railroad attorneys harped on the railroad values, and the values for the railroad, insisting on a value of \$75 a square foot or thereabout. The jury put a value on it of \$9 a square foot, which the real estate experts for the city put on it, and that is the amount the Sanitary District paid to the Pennsylvania Railroad.

Mr. GOLDSTINE: In placing a valuation, a number of certificates have been submitted to this board up to this time, but I have not heard but one man's name mentioned with reference to values. I want to say in connection with the Chicago Real Estate Board that the names signed to this certificate, at least most of them, are some of the most prominent real estate men in Chicago. I think there are six of them. At the time this valuation was made by these six members, there were some fifteen other members of the Chicago Real Estate Board who handled down town and South Side property, and among them Mr. Wetten, if you please, who discussed these values and fig-

ured them out, and in that connection I want to say also that subsequent to the valuations being made by this committee, that it was submitted to a meeting of the board and approved by them by a unanimous vote, with the exception, I think, of one vote. For instance, at Michigan Avenue and Twelfth Street the value was figured at \$6,000 per front foot, or \$150,000 for 25 feet front. The property which was two years ago valued at \$14,500,000 was now considered worth \$16,000,000, so that you can see by that comparison that they had some idea of the values of real property in that vicinity.

Now then, we are attempting to compare a piece of land under water, east of the railroad, not adjacent to Michigan Avenue, but away east of Michigan Avenue not available for the same high-class purposes, with property at Congress Street, as if it were used for commercial purposes. They started an investigation of the property, beginning at Twelfth Street, in detail, before they arrived at the average value in the few miles, and it was the unanimous opinion of this committee which first made separate valuations, and in that connection I can say to you that when they made the total valuation that the range of difference between the high and low values of this entire committee was less than \$100,000. Some of the values were as high as \$50 per square foot, but there is altogether a different class of property involved in the right of way in this proceeding, by comparison with the property adjacent to Michigan Avenue on Congress Street, or even at Michigan Avenue and Twelfth Street.

The question then comes up, what is the test of values? In a trial for the purpose of setting a value upon a piece of real estate, in my judgment, from my experience as a real estate man, and of those men who were then associated with me in this report, the value is based in its present ownership, for its highest and best use; that is, make railroad values on a piece of land, if you can make it railroad land; and the land that you have east of this right way, under water, without any tracks, without any connection with the system, cannot possibly have a railroad value, except as a speculative proposition, and I do not believe any court in the land will allow a man to testify as to the speculative value of a piece of land.

Again, with reference to railroad value of a piece of land, the railroad value attaches to that land as a part of the system; just the same as if you take an ordinary 25-foot lot, 25 by 100 feet. It contains 2,500 square feet. Assuming for argument's sake that it is worth \$300 a foot, which would make \$7,500 for the lot, or 2,500 square feet at \$3.00 a square foot, and every square foot of that land is worth three dollars, whether in the front or in the rear, by reason of the fact that it is a single

entity, and has its value by reason of its relationship to the whole lot.

If, on the contrary, you were to segregate the rear half of the lot and treat it independently of the front of the lot, it naturally would have a different value, and probably a greater lesser value; and so it is wherever a piece of railroad land is segregated from the railroad, and from railroad uses, and it will have an entirely different value than it will as a part of the entire railroad system. I think that has been testified to and been proven in condemnation cases, in a great many cases in this city.

MR. ROSENTHAL: May I ask a question?

MR. GOLDSTINE: Oh, certainly.

MR. ROSENTHAL: Supposing you had a strip of land 200 feet wide, extending for one block east of the Illinois Central Railroad Company right of way; and you found that that land was available for use by the Illinois Central Railroad Company for railroad purposes, and you were the owner of that land, would you sit down then and say: 'Here, I am not going to put a valuation on this for railroad purposes, which is many times more than the value for ordinary purposes, but I am just going to take the value for ordinary purposes, because I am going to have it for buildings, because only the Illinois Central want it for railroad purposes. Of course it would not be used for railroad purposes?'

MR. GOLDSTINE: Before I answer that question, I will state that I had a case in point.

MR. ROSENTHAL: I don't want the case.

MR. GOLDSTINE: In that case, I would personally try to get the railroad value. The value of that land would be for its highest and best use. If it were absolutely railroad land, I could not give you the value, because I don't know what railroad values are; but adjoining a railroad, I would value it as commercial property, available for use in connection with a railroad for manufacturing purposes and give that value. Only a few days ago that very same question arose in a case tried by the City of Chicago with reference to the opening of Ninety-second Street and South Chicago Avenue, between Ninety-first and Ninety-third Streets. The plaintiff in that case attempted to prove a railroad value somewhere about sixty-five cents a square foot, and the jury brought in a verdict of twenty-five cents a square foot, on the contention that it was alongside the railroad, and was available for factory purposes in connection with the railroad, and did not have a terminal value, or railroad value.

MR. ROSENTHAL: Let me ask one question more. This property, which is along the Illinois Central right of way, running,

we will say, from Twelfth Street to Sixteenth Street, has a terminal value, hasn't it?

Mr. GOLDSTINE: In my opinion not until it is used as railroad land. When you say "terminal value", that is, as a part of the railroad terminal, owned by the railroad company.

Mr. ROSENTHAL: If the railroad company wanted to use this part in connection with its terminal facilities, wanted to augment its terminal facilities, and it was immediately adjacent to its right of way, then it would have a value for terminal facilities, would it not?

Mr. GOLDSTINE: It may have a value for terminal facilities, but if I didn't know that the railroad company wanted it for terminals, then I would not put a terminal value on it.

Mr. ROSENTHAL: That is exactly the point I want to show, because that is exactly what I want to bring out to the committee.

Mr. GOLDSTINE: I cannot put a terminal value on it until it is used as a terminal.

Mr. EMERSON: Supposing you had positive knowledge that it was going to be used for railroad purposes, would your valuation have been different from what it was the other day?

Mr. GOLDSTINE: I could only answer that by saying that I could not put a valuation on it for railroad purposes, because I don't know what land is worth for railroad purposes. I don't think any real estate man knows.

Ald. EMERSON: There is no doubt in the mind of anybody about this property being used for railroad purposes. Your value then is valueless so far as this committee is concerned.

Mr. GOLDSTINE: On the contrary, we value the land as being adjacent to the railroad company, and it would be available for what we call factory purposes, in connection with the railroad alongside of it.

Ald. EMERSON: But the railroad has the right of way, and will put more tracks there. We must assume it is to be used for railroad purposes, and as such to be valued.

Mr. GOLDSTINE: They have land adjacent to it on the west, which is of the same character and available for railroad purposes, and it would be worth the price at which it can be bought in the market.

Ald. HEY: Wouldn't it be clear that it could not be used for factory purposes, being on the east side of the track and not having access in any way from the main land?

Mr. GOLDSTINE: Then it would be worth as much in my case as I stated the other day. I said the land on the west side of the track was worth more by reason of the fact that it had access, whereas the land on the east side of the railroad had not access.

Ald. HEY: Then it would be clear to you that it could not be used for any other purpose, except for railroad purposes?

Mr. GOLDSTINE: That would be restricted, and you would have to wait until the railroad company would want it for railroad use, and until that time, if it were available for nothing else, it would be absolutely unproductive and be increasing in its cost and carrying charges all the time.

Ald. EMERSON: Wouldn't you assume, if the Illinois Central had use for the land, that they would use it for railroad purposes?

Mr. GOLDSTINE: Yes, a real estate man, in valuing, would always assume it in that situation. In the North-Western case, when they made a valuation of the land on Madison and two or three adjacent streets, the courts decided that at the time the North-Western filed a bill for condemnation, it was not known that it would be a terminal. They started to buy there long before anyone knew it, and then objection was filed that it was not absolutely known, and that the values must be taken as of that date, without relationship to terminal values.

Mr. OLIVER: May I ask Mr. Rosenthal a question?

Mr. ROSENTHAL: Yes.

Mr. OLIVER: The Rialto Building and the Board of Trade are available for terminal facilities for the Lake Shore Railroad. Now, if the Lake Shore Railroad wanted to condemn the Rialto Building and the Board of Trade, what would any court allow it as the price to be paid for those properties, for what use? Any higher use than they are used for now, or the price that measures their present use?

Mr. ROSENTHAL: If the property was immediately available for railroad purposes, its value would be measured by that.

Mr. OLIVER: By the present use?

Mr. ROSENTHAL: No, by the railroad use, or its availability for railroad purposes. I want to ask a question in connection with that.

Mr. OLIVER: Go ahead.

Mr. ROSENTHAL: You said no factories could be located there and run, because it was inaccessible?

Mr. GOLDSTINE: Alderman Hey asked me if it were accessible.

Mr. ROSENTHAL: You said a moment ago it could not be used for factory purposes?

Mr. GOLDSTINE: I said if it could not be used the value would be restricted; that it would not have as great a value.

Mr. ROSENTHAL: Under the ordinances referred to here the other day, now in force, viaducts can be constructed across the right of way of the Illinois Central, and without any cost



to the city. The streets can be extended across the Illinois Central right of way without any cost to the city; all of which is to be foreclosed by this ordinance.

Mr. GOLDSTINE: By reason of the fact there are other features in connection with this ordinance that take away the availability for manufacturing purposes.

Mr. TABOR: Our valuation was predicated on the streets being in, the sewers being there, and the gas being there, and so on, and everything completed on the east side of the track, and just as accessible as it was on the west side of the track, Mr. Rosenthal.

Mr. ROSENTHAL: And not the railroad tracks being there?

Mr. TABOR: Yes, the railroad company being just where it is today.

Mr. VAN VLISSINGEN: The supposition of the streets being there and the sewers being placed there, etc., it would have been just as easy to predicate the value upon the railroad tracks being placed there.

Mr. TABOR: No, because I am not a railroad man.

Mr. GOLDSTINE: There is only one thing I want to say in conclusion. It is this: I don't believe, as a real estate proposition that half of the land can be measured by the particular or restricted use of a corporation or person. We must take it, as I understand the question of values, for the best use; and I will say that as a matter of fact, if there were 200 or 300 feet filled in there east of the present Illinois Central right of way, and there was no question of the Illinois Central wanting that land, or a trade here involved, that that land could be used for commercial purposes, and would have its value; and that is the highest and best use, in my opinion; and that is the value, in my opinion, that should be used in measuring the question of debit and credit in this proposition; not what its use is as being particularly valuable to some one person.

Mr. ROSENTHAL: Might I ask you another question?

Mr. GOLDSTINE: Certainly.

Mr. ROSENTHAL: In the estimate the other day of the Real Estate Board, it was stated there about increased values down town and its effect on the city, but they did not state anything about the disturbance of values, or rather the destructive results on values along the right of way or adjacent or neighborhood residence property.

Mr. GOLDSTINE: I can answer that in this way: taking the railroad as it now is, and take it away from there, and you will damage the property in that section of the city, in my opinion, tremendously. That section of the city depends to a great extent on the service of the Illinois Central, and in my experience in-

stead of its being a damage, it has proven to the contrary; and in every case where there has been added transportation, it has inured to the benefit of the property in the neighborhood, and that has been proved time and again right on the South Side.

Mr. McKAY: Over the Illinois Central there is the West Michigan, Big Four and Michigan Central.

Mr. ROSENTHAL: How about the Wisconsin Central?

Mr. McKAY: And the Wisconsin Central. Right you are for once. Those values are found by pacing off the right of way to the city limits, in parcels of say a half mile in length; and an average value is found for this first half mile; so much for the second half mile, until you get finally to the city limits. One of the aldermen here, whose name I don't know, asked the question: "Hasn't it a different value?" And I want to give you another object lesson before I get through. Isn't there a different value by being merely adjacent to a railroad, and not any railroad use or ownership? There isn't one whit of difference, and one hundred cases can be cited to you of trades between railroads themselves, where the actual transactions between them were based on cash market values, and nothing else. In answer to Mr. Rosenthal that there is something peculiar in a terminal value when it is owned by a railroad, I can say to you and can prove it by facts that that terminal value does not come from the act of the railroad, but such terminal value is made by what the community value is about that particular place for any and all uses. To make it clear, the railroads sometimes have to buy a building in connection with land for railroad use, but when they have made that purchase, they have to add the value of the building in their bookkeeping, which must be added to the value of the land. In the instance of the Chicago & North-Western Railway, at its new terminal at Canal and Madison streets, the average cost of the terminal, including the buildings, was \$10 a square foot.

Railroad value is not the highest value in land. Coming right to the apex or culmination, the Buck & Rayner corner, at Madison and State streets, I have heard it proven under oath, the fee is in the City School Board, the income is four per cent on \$400 a square foot, or \$48,000. In other words, if any railroad seeking to get a corner there, were to go down through Marshall Field's, and if the buildings could be cast off for the time being, if they were seeking to purchase the property based on its commercial earnings for retail use, and operate a railroad based on those values, it would simply be bankruptcy for the amount of money that a railroad can earn. I want to show you that there is no difference in the value of land, whether the ownership is in a private individual and adjacent to the railroad, or that same land

or the land next to it, if owned by a railroad and in actual use by a railroad.

Mr. ROSENTHAL: Then you disagree with the evidence here?

Mr. McKAY: I know all those men. Skeene was the commissioner for the road for years.

Mr. ROSENTHAL: A commissioner?

Mr. McKAY: Yes. In the Pennsylvania-Sanitary District case, under that statement of the law that there is no cash market value in land when in railroad use, the attorneys for that railroad got up a specious argument, at least what they call a hypothetical question, a long lingo and put in, assuming so and so, and assuming so and so, and their basis was this: That here is a railroad that extends from Chicago to Pittsburg, 525 miles; that here is the total earnings of that stretch of railroad disassociated from the holdings at the eastern end, so many dollars; now out of that gross earnings you are to take sixty per cent. for operating charges and expenses and repairs, and things of that kind; then you are to assume that so much freight originated at Pittsburg, and so much along the line, and then so much originated at the Chicago station, reciprocally, and you take all those things together, and on that sum then you will find a four per cent. computation of what your railroad value is. Now, what is it?

Mr. ROSENTHAL: What was your answer?

Mr. McKAY: I will give you the answer. I was connected with the case for the Sanitary District, myself, and got up all the data, and I got seven or eight of the best real estate men in Chicago, and got their sworn oath, based on their experience, and their valuation was \$9 a square foot. The railroad people came on, and one of them, Fred Douglas, said he never saw this property until yesterday. Then the hypothetical question was put to him, and he was asked, was he competent to put a value on such a piece of property. He said: "Surely, I will put a value on any piece of property in the United States." His value was \$145 a square foot, in place of \$9 a square foot; but the thing was so ridiculous to the jury, that the verdict of the jury was exactly \$9 and nothing else, and the company did not appeal it, but took the \$9 for the property, and were satisfied.

Ald. EMERSON: If you had a property to sell, you would be interested in getting as good a price as you could, wouldn't you?

Mr. McKAY: Yes.

Ald. EMERSON: A piece of property is just worth what you can get for it.

Mr. McKAY: Yes, and the community is what makes that, and the sales are the best test of values any mortal man ever knew.

Mr. ROSENTHAL: May I ask a question, and put it hypothetically? May I put a hypothetical question?

Mr. McKAY: I am rich enough to say I never had the disease. Go ahead.

Mr. ROSENTHAL: Mr. McKAY, assuming that the right of way of the Illinois Central Railroad Company is leased to another railroad company on a basis of five per cent. on the valuation by the Illinois Central Railroad Company upon that particular right of way, would that be an indication in your mind that it is the value?

Mr. McKAY: I would have to know the circumstances under which that was made. In the instance of the Great Western, where they were held up at the throat, where they go over the Taylor Street bridge and wanted to get that as against the Northwestern and another railroad, they had to pay between two and three times what it was worth under other circumstances.

Mr. ROSENTHAL: Then will the answer to the hypothetical question number two be that the Illinois Central Railroad Company at the present time does not want this additional right of way for its own purposes; consequently, we are justified in inferring that it will lease this right of way to other railroads, to give them terminal facilities? Do you think that the Illinois Central Railroad Company, in leasing this additional 200-foot strip, or 400-foot strip, to other railroads, will be governed simply by its value for ordinary purposes, or for railroad purposes?

Mr. McKAY: I do, both for ordinary and railroad uses, which are identical. Now, Mr. Rosenthal, there is this to be said, that from the different things which happen to a railroad in acquiring land, the average experience all over Chicago is that the minimum cost to the railroad has been one and a quarter times its track value, or 125 per cent. in a total of one hundred. There are instances where the purchases run to one hundred and fifty per cent., due to obstructions in the way, and the further fact that everybody tries to get ahead of them. When a railroad goes through, they have to have the property, and the law confines them within certain strips, and under those circumstances, the railroads have to pay one and a quarter to one and a half times what the ordinary right of way is worth.

Mr. ROSENTHAL: Assume this to be the case: assume that at the present time there is a railroad which is seeking better terminal facilities, a better entrance into the City of Chicago, and leased that submerged land for a right of way, 200 feet wide, extending from Fifty-first Street to Twelfth Street at the rate of \$5 a square foot, would that be an index of its value?

Mr. McKAY: Mr. Rosenthal, I could not even assume that

as a hypothetical question without better knowledge than I have now. No other railroad could use it.

Mr. ROSENTHAL: No other railroad than what?

Mr. McKAY: No other railroad than the Illinois Central can use this strip at all.

Mr. ROSENTHAL: If they had a connection at Fifty-first Street?

Mr. McKAY: Yes, if it had a connection at the north and south, and no other railroad could get there. If it ever gets it, then the Illinois Central can lease to another railroad to come in; but for another railroad to come in there, to get the right of way adjacent to the Illinois Central on that submerged land, it is a lawful impossibility, and they can't get it.

Mr. ROSENTHAL: Why is it a lawful impossibility?

Mr. McKAY: The Illinois Central has its claim for the riparian rights. The only one who can condemn is the Park Board, and when the Park Board gets it, it can neither lease it for railroad or commercial use.

Mr. ROSENTHAL: Supposing the railroad condemned it to lease to other railroads?

Mr. McKAY: I take it if that were to occur, the State would have the paramount right.

Mr. HERON: May I ask the committee if any ladies have appeared before this committee regarding this ordinance?

The CHAIRMAN: No.

Mr. HERON: I think if the ladies on the South Side appeared here, there would not be half the hesitation that there is with this committee. I have ridden from Hyde Park down town many times, and I have seen many ladies turn their faces from the lake for no other reason than that the lake is lined with a lot of nude men. Now then, the Illinois Central has been on the lake front since 1886, when I came here. It was reported all over Chicago that they had stolen it then, that they were usurpers and had no business there. They are there now, and that is twenty-five or twenty-six years ago. They are going to be there. Now then, let's get this ordinance through. As I said, the South Side Business Men's Association, the men that are in business there from Eighteenth street to Forty-seventh street, are in favor of this ordinance as tentatively agreed upon. That ordinance, if passed, perhaps will be submitted to a court; the only vulnerable place it can be attacked is whether this transfer is equitable; whether you are giving to the Illinois Central more than the Illinois Central is giving to you.

Now then, if you take and place in there that little thing that I asked for when I stood up here at the commencement of this meeting, a five-cent fare anywhere along the Illinois Central,

there is no jury, no matter what their enmity toward the Illinois Central, who will ever interfere with the ordinance; for then there is no one that can say that this ordinance, if agreed upon, on that five-cent fare, if placed in there, is not equitable, that Chicago is not getting a full compensation for the trade, that will give to the city and to the people in the city, some benefit. Therefore, I say, gentlemen, put that in the ordinance. If the Illinois Central won't agree to it, make them agree to it. Give the people out south there a five-cent fare anywhere along on their suburban trains.

The CHAIRMAN: The ladies will have to put up with the conditions that exist there. This, gentlemen, concludes the public hearings. If there is anyone that wishes to present any facts to this committee, if they will put them in writing, they will be given the same consideration as if they were here present.

The meeting will be concluded, and we will meet here on next Monday at three o'clock, to consider the ordinance.

Whereupon an adjournment was taken until the following Monday, February 5, 1912, at three o'clock P. M.

PROCEEDINGS OF THE COMMITTEE ON HARBORS, WHARVES AND BRIDGES  
OF THE CITY COUNCIL OF CHICAGO.

Monday, February 5, 1912, 3 o'clock P. M.

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The committee was called to order by the chairman, Alderman Littler.

Secretary Harrah called the roll, showing the following members of the committee present: Aldermen Littler, Long, Nance, Emerson, Buckley, Kunz, Brennan, Geiger, Hey, Block, Ryan and Forsberg. Among others present were the following: Mr. Skinner, representing Corporation Counsel's office; E. B. Butler, Henry W. Lee, Lessing Rosenthal, Mayor Harrison, Mr. Van Vliссgen.

The CHAIRMAN: Now we are here to consider this ordinance which has been under discussion in a public way for the last ten days. What is your pleasure? How shall we proceed to finish up this ordinance?

Ald. GEIGER: I was not at the last meeting owing to illness, but have attended all the previous meetings. I was informed that this was to be an executive session, is that true?

The CHAIRMAN: No, sir. This is the committee strictly, and we concluded the public hearings on last Friday. I announced that if there were any resolutions the committee would be glad

to receive them. How shall we proceed with the matter in question?

Ald. NANCE: I would like to know what disposition has been made of the communications sent to the committee.

The CHAIRMAN: The resolutions are all here on file—everything that has been presented in the way of a resolution or argument is part of the records in this matter.

Ald. BRENNAN: I would like to ask, Mr. Chairman, if there is any opinion from the Corporation Counsel's office, or from anywhere else, regarding the riparian rights of the Illinois Central, if they have any, to this committee?

The CHAIRMAN: We have received no opinion from the Corporation Counsel's office.

Ald. BRENNAN: How are you going to proceed if you have nothing to proceed on? How are you going to give the Illinois Central the right to property when you do not know whether they have a right there at all?

The CHAIRMAN: I think that is a matter of opinion, whether there is—whether they have any riparian rights there. It will have to be threshed out in court. It seems to me if we waited a day or two days to receive an opinion from the Corporation Counsel that would not help us solve this problem, because that would be a matter of litigation anyhow.

Ald. BRENNAN: You do not want this committee to go on record as voting for something, and the Corporation Counsel come in with an opinion and make a lot of fools of us?

The CHAIRMAN: No, sir.

Ald. BRENNAN: It seems to me that is the way we are doing or attempting to do.

Ald. FORSBERG: How long will it take to get that opinion?

The CHAIRMAN: We have asked the Corporation Counsel to appear here at this meeting. As soon as he gets here we will find out.

Ald. BLOCK: I am not in favor of putting the responsibility on any one judge rendering an opinion upon this proposition. I think the responsibility will sooner or later be up to this committee. I think the proper thing is to find out whether the Illinois Central has any riparian rights which they are trading away, and if they have, we can find that out. That must be our position, it seems to me, before we go any further. All the discussion we have had here for the last three or four days seems to indicate very good arguments against it. I have not anything in my mind that indicates that they have any riparian rights. If that is established, then we have a basis to work on.

Ald. NANCE: Let us go back a little further. We have gone ahead now without an opportunity of hearing or receiving much

information. Now how about the communications that have been placed before this committee—whether they are going to be brought before the members of the committee or not?

The CHAIRMAN: I think they were all ready.

Ald. NANCE: I notice there has been a stenographic report made of these meetings; for what purpose has that been done?

The CHAIRMAN: For a matter of record.

Ald. NANCE: If they are of any value it seems to me there should be a transcript and copies furnished to the committee.

The CHAIRMAN: Nothing more than to keep a record of everything that has taken place pertaining to the whole subject matter. Now you are aware that if we had all this printed, it would cost several hundred dollars, and would the committee read them? You know what is the usual disposition that is made of these records.

Ald. NANCE: I presume——

The CHAIRMAN: I for myself would not read a line. The members have been in attendance and heard the arguments, now it would not expedite matters by having these printed and placed before each member of the committee, because it is assumed they are able to judge on the merits of the whole case.

Now it seems to me we want to formulate an ordinance along the lines that are best adapted for the protection of the public. Now this suggestion of Alderman Brennan—that we should receive at the start an opinion from the Corporation Counsel's office appears to me a very wise suggestion. We have not had such an opinion and it seems to me the arguments on this whole matter have been largely a matter of riparian rights—whether the Illinois Central has anything to give away or not. Now if the Corporation Counsel can advise this committee that in their opinion they have rights there which would have to be settled for in order to make this ordinance binding on all parties, it seems to me it would be well enough to have that opinion.

Ald. LONG: I think it is rather difficult to go into that for this reason, as you know the Lake Shore Reclamation Commission has a suit pending against the Illinois Central covering this entire lake shore, on the theory that the railroad company is a trespasser. We filed a bill in equity about eighteen months ago and the Illinois Central demurred to our bill. The demurrer was sustained by the lower court. The city was overruled in its contention on the ground that there were no sufficient allegations as to specific tracts claimed. I will not enter into the history of this litigation, but what I wish to say is this, we had to make out a *prima facie* case. If any of you have had a suit in court you know what that contemplates. Now in order to do that we had to have a survey made of the entire lake shore and also a com-



plete abstract of title. We have procured the abstract of title from the Chicago Title & Trust Company at an expense of about \$3,500. We also made a complete survey of the lake shore. It was made by Mr. Inman, of the City Map Department. He worked upon this matter for upwards of a year and a half, and made a very exhaustive study and map and gathered volumes of testimony. We have prepared an amended bill in order to hold ourselves in court based upon this additional testimony. Now, of course, the Corporation Counsel being the attorney in this suit would be put in rather an unfair position if he were asked to give an opinion, because he certainly could not give anything other than an opinion to sustain his suit at this time.

We realize this fact, gentlemen, the railroad company has this land; it is in actual possession.

Ald. BRENNAN: They have the land they want now.

Ald. LONG: Yes. They have the land and we cannot do anything on the lake shore in the way of improvements—in the way of getting our improvements started until we get permission from them to do it, or win out in our suit, one or the other, or get authority from the Legislature to condemn. There are three ways we can proceed. We have either to win in our bill in chancery, or we must negotiate with the Illinois Central, or we must go to the Illinois Legislature and get power to condemn. Let us consider the first method: Suppose we win out against the Illinois Central, we do not expect in any event to win the whole lake shore. The company has title to a great deal, and we do not expect, even with the most favorable result, to win the whole of the lake shore, but we do expect to get spots of it here and there, so that even a victory in this suit would leave us in a position not well designed to accomplish the best results. A victory might be a partial victory; it might be a small one or it might be no victory at all. You know the uncertainty of law suits as well as I do.

Ald. BRENNAN: I never had one in my life.

Ald. LONG: You are fortunate that you never have had one. So you see, gentlemen of the committee, that this is not a question of opinion. An opinion of the Corporation Counsel or any other lawyer's opinion would not be any better than my opinion or yours.

Now as to the possibility of the city getting immediate possession of the lake front and riparian rights. What we want is the entire lake shore, not spots of it. There is still another way we can get it—we can condemn spots of it for harbors and bathing beaches. We have that power under the law.

Ald. EMERSON: The Mayor vetoed that.

Ald. LONG: We could renew the ordinance.

Ald. EMERSON: That has been vetoed.

Ald. LONG: Assuming that this whole movement fell down, we could again renew our ordinance for the harbor location and thus acquire a large part of the shore property, but it would be unreasonable to assume the city would want all of the lake shore from Grant Park to Fifty-first Street for harbor purposes. We could also take such portion of the lake shore as might be reasonably needed for bathing beach purposes. But none of these methods would give us complete control of the lake shore, and enable us to carry out a homogeneous plan covering the whole shore line.

It seems to me that to wait for an involved opinion would not help us materially. We are confronted with a condition somewhat peculiar, and it seems to me that it is up to us to decide whether, under all the circumstances, knowing the uncertainty of these chances and efforts that are being made by the city and by the State to get possession of the lake shore, whether it would not be wiser for us to recommend some kind of an ordinance, an ordinance that would suit us, suit the members of this committee. It seems to me the wise way to do is to pass or recommend some kind of an ordinance—an ordinance that we can subscribe to, and put it up to the Illinois Central to either accept or reject the same.

Ald. BRENNAN: How are you going to pass an ordinance—I am ready to vote. I believe that the Illinois Central has not the right there that they ought to have to be paid for. If they have not got the right I do not believe the City of Chicago should give them any property or pay them for it. That is the way I feel about it. I am not against the Illinois Central, but let us define their rights. I am not going to come in here and vote blindly.

Ald. LONG: We know from an examination of the titles that they own a fee simple title to a large portion of those lands. The ordinance giving them the right to locate their tracks there was passed in 1852. The Act of the Legislature giving the city the right to pass the ordinance was passed in 1851, and after the city passed that ordinance in 1852 the Illinois Central had nothing but a right of way, but during the last fifty years the Illinois Central has acquired by purchase the fee and has deeds of conveyance for the land from Twelfth Street to Fifty-first Street, except only a strip of land known as the Walker Estate, which was formerly owned by Stephen A. Douglas and his heirs. Now to approximately 50 per cent. of the shore lands in question, there is no question as to title. Any lawyer who has ever examined the abstract would come to this conclusion. As to some of the remaining 50 per cent. there is serious cloud upon the title, but the railroad has the best record title there is. On some of the lands

they have acquired, they have undoubtedly extended beyond the water line by trespass. Just how far their trespass will affect their riparian rights is a matter that the courts will differ about.

Ald. EMERSON: If that is the case and they have acquired a certain part of their lands by trespass, then in that way they are in bad odor with the City of Chicago, are they not?

Ald. LONG: I am just telling you what I understand about it.

Ald. EMERSON: I want to say this, alderman, you stated that the Corporation Counsel would be rather embarrassed in rendering an opinion. We have several lawyers before this committee, we have had Mr. Comerford and Mr. Rosenthal and I have no doubt they are eminent lawyers. Now, why—we may ask for an opinion from the Corporation Counsel and he would give it to us—why not have it from those two other lawyers along with the Corporation Counsel's opinion and we would relieve him from his embarrassment, so to speak?

The CHAIRMAN: Here is a communication from the Chicago Title & Trust Company, addressed to the South Park Commissioners, which I will have the secretary read.

(Secretary Harrah read the following):

CHICAGO TITLE AND TRUST COMPANY,  
Title and Trust Building,  
Chicago.

January 31, 1912.

Guarantee Department.

*South Park Commissioners, Chicago, Ill.*

GENTLEMEN:—We have made examination of the sundry opinions heretofore made for you showing the condition of the title to all lands lying easterly of the easterly line of the right of way of the Illinois Central Railroad from Twelfth Street to Fifty-first Street in the City of Chicago, made during the months of May and June, A. D. 1907. From such examination it appears that the Illinois Central Railroad Company is the owner in fee of approximately 22,105 lineal feet of the land, or the riparian rights appurtenant thereto, and lying easterly of said right of way, and that said company acquired a right of way by condemnation proceedings over approximately 805 lineal feet of said right of way, and that said company holds title to approximately 2,130 lineal feet of said right of way without rights to any land formed or acquired easterly of said right of way.

This summary is subject to all assumptions, matters and objections affecting the title to the premises covered by the above statement, which are shown or noted in the opinions above referred to.

Yours truly,

CHICAGO TITLE AND TRUST COMPANY,  
WALTER B. SMITH, *Assistant Secretary*.

Ald. EMERSON: It appears to me it does not give a decided answer to the committee.

Ald. KUNZ: Mr. Chairman, I understood that we were going to have an opinion from the Chicago Title & Trust Company showing the title of the Illinois Central Railroad Company—now, have you got that?

The CHAIRMAN: That is from the Chicago Title & Trust Company that you have just heard read.

Ald. KUNZ: That is not a certificate.

Ald. RYAN: Ald. Utpatel.

The CHAIRMAN: Yes, sir.

Ald. UTPATEL: Now, Mr. Chairman and Gentlemen, I do not live on the South Side. I, in part, represent a ward on the Northwest Side, yet no alderman should shirk his duty, but should take up every question that pertains to the City of Chicago and its people.

Back beyond my time, because I am a young man—a younger man than I appear to be—the Illinois Central got certain rights for certain purposes, namely, the laying of track on a certain piece of ground on the lake front, and every lawyer who has ever read Blackstone or some one on real property, knows that only the natural accretions created by the acts of God are riparian rights, and I believe Mr. Rosenthal here, who is a well-known attorney, will bear me out. Accretions to land were never intended to be created by human hand, by fence, by piers or any other device, so that the claim that Chicago by going into any contract today or at any time will legalize everything that has been stolen from the State of Illinois on the lake shore—now, that is a question upon which lawyers differ, even the Supreme Court differs; but I want to say to you, gentlemen, that this is a very, very large question, and an important matter to us in the City of Chicago. I believe I am right when I say that there is a committee of the Council, appointed during the time when his Honor Mr. Busse held the office of Mayor, which was to inquire into the titles of all riparian rights and lake shore rights, and if Mr. Long will remember, I got up and made a motion to amend that resolution which would call for the investigation of titles and rights to land along the lake shore from the city limits on the north to the south limits, and that amendment stood. I am right, am I not, Mr. Long?

Mr. LONG: That is right.

Ald. UTPATEL: I do not believe at this time that we should handle this matter until we hear from this committee. This committee is a good committee. I understood they were to ascertain the rights of the various people along the lake shore. The committee has not yet reported, I believe.

I do not want to go into anything that I think is the least bit uncertain. You have here a so-called opinion of the Chicago Title & Trust Company, what is it? It is based on assumptions; no lawyer, no matter how cheap he is, would take a guaranty policy based upon assumptions. Now, I believe that you should first find out what this committee of investigation has done and

has accomplished in the way of ascertaining the titles and rights. I myself do not believe that this railroad company has any such title as some of you gentlemen think, and I think if you should go into this contract you will ratify everything illegal they have done, because you have practically closed your door; it is just like confessing a judgment; and I want to tell you, gentlemen, that I do not think it is right. You ought to go deeper into the matter. You should first hear from the committee of the City Council which is now investigating the so-called riparian rights. I tell you that the average riparian right existing along the lake shore of Lake Michigan is a myth and a farce.

Sec. HARRAH: Here is a communication signed by twenty-six owners of property along the right of way of the Illinois Central Railroad between Thirty-first and Thirty-third Streets, addressed to the committee under date of February 3, as follows:

CHICAGO, February 3, 1912.

*To the Committee on Harbors, Wharves and Bridges of the City Council of the City of Chicago.*

GENTLEMEN:—The undersigned, citizens of Chicago and owners of real estate along Lake Park Avenue, between Thirty-first Street and Thirty-third Street, adjacent to the right of way of the Illinois Central Railroad Company, respectfully petition your honorable body to disapprove of any ordinance proposing to ratify the agreement between the South Park Commissioners and the Illinois Central Railroad Company, dated December 11, 1911, for the following reasons:

1. The grant of the Illinois Central Railroad Company of a right of way from Fifty-first Street to Twelfth Street, ranging in width from four hundred feet to seven hundred feet, will establish a large railroad yard along our lake front and adjacent to the proposed new park.
2. On account of the intolerable noise, the smoke, soot and grime, the stationing of cars, both freight and passenger, such railroad yard will constitute a nuisance and menace to the people of Chicago.
3. Such railroad yard will constitute a great barrier to the proper enjoyment by all the people of Chicago, of the proposed new park.
4. Such railroad yard will destroy, in a large measure, not only the beauty and cultivation, but also the utilization of the proposed park.
5. Such railroad yard will be especially damaging to all the neighboring residence property.
6. The grant to the Illinois Central Railroad appears to be out of all proportion to the value of the property surrendered by the railroad company.

For the foregoing reasons, we respectfully petition you to reject the contract you are asked to ratify, and we recommend to you that you ratify no agreement between the South Park Commissioners and the Illinois Central Railroad which does not provide the following:

1. That the right of way between Twenty-ninth Street and Fifty-first Street be confined to a width not to exceed 250 feet—the width of the present right of way between Forty-first Street and Fifty-first Street.
2. That the tracks of the Illinois Central Railroad Company be depressed so that an unobstructed view across the right of way of the proposed new park and the lake may be secured, and so that no approaches need be built for any viaducts crossing the Illinois Central right of way.
3. That the use of a right of way south of Thirty-first Street be restricted to purely railroad purposes, and that no structures be permitted thereon, other than such as are necessary for strictly railroad purposes,

and that no such structure be higher than the adjacent lands on the west of the right of way.

4. That as soon as practicable, after the lapse of five years, the railroad company be compelled to operate its trains within certain limits of the City of Chicago only by electricity.

Your petitioners respectfully suggest to your honorable body that you will ultimately serve the whole city only by insisting upon the foregoing limitations and restrictions.

Respectfully submitted,

CHAUNCEY DEWEY, 3266 Lake Park Ave., 350 ft.  
J. SCHNERING, 3248 Lake Park Ave.  
E. H. PACKARD, 3206 Lake Park Ave.  
F. G. WHITING, 3152-3154 Lake Park Ave.  
WM. G. COSTELLO, 3212 Lake Park Ave.  
E. F. SHERWOOD, 3146 Lake Park Ave.  
E. W. BURNHAM, 3142 Lake Park Ave.  
L. B. GANNON, 3136 Lake Park Ave.  
THOS. L. GILMER, 3220 Lake Park Ave.  
L. B. VAUGHN, 3230 Lake Park Ave.  
R. B. MILLER, 3228 Lake Park Ave.  
J. M. POST, 3224 Lake Park Ave.  
W. D. MAHIN, 3222 Lake Park Ave.  
A. G. OLSON, 3116 Lake Park Ave.  
J. F. WALLACH, 3216 Lake Park Ave.  
L. H. KNODELL, 3150 Lake Park Ave.  
E. A. JAMES, 3259 Groveland Ave.  
J. C. BALDWIN, 3217 Groveland Ave.  
J. S. TAYLOR, 3225 Groveland Ave.  
D. T. KILEY, 3227 Groveland Ave.  
G. D. STONE, 3241 Groveland Ave.  
W. B. CUNNINGHAM, 3249 Groveland Ave.  
R. C. McMULLIN, 3262 Groveland Ave.  
F. J. STAEHLE, 3242 Groveland Ave.  
W. H. THOMAS, 3234 Groveland Ave.  
P. B. COFFIN, 3232 Groveland Ave.

Sec. HARRAH: Here is a communication from Aaron M. McKay, addressed to the chairman, under date of February 5, as follows:

AARON M. M'KAY,  
Real Estate,  
112 North La Salle Street.

CHICAGO, February 5, 1912.

*Alderman Harry Littler, Chicago, Ill.*

DEAR SIR:—Aside from the compilation turned into your committee by me as to exact amounts paid in transactions between railroads, I would like to add this:

Mr. Rosenthal seeks to have you men draw the inference that because three men expressed an opinion in a law suit as to the value of the Illinois Central right of way near Congress Street, that it would follow that the value of \$3.00 a square foot on the 162 acres is a very modest estimate of value. But you men on the committee know, as do all real estate men, that there are differences of value all over the City of Chicago, due to each local condition, and nobody would assert with intelligence that the value of the corner of Madison and State Streets would be a comparative measure of value on the corner of Kinzie and State Streets. The fact is that Madison and State Streets is worth forty times as much as Kinzie and State Streets, and the distance is exactly one-half mile between the two points.

In my opinion, which would be backed up by every real estate man in

Chicago, the alleged value, in a law suit, of \$36.00 a square foot at Congress Street would have no bearing on the values at Twenty-second, Thirty-first, Thirty-ninth and Fifty-first Streets, positions which are one, two and three miles away.

Here, it seems to me, comes the complete answer. The Michigan Central owns a large piece of property north of South Water Street and east of Michigan Avenue, running down to the river. Last year they made a lease of two pieces to the Goodrich Steamboat Company, as is shown by the accompanying plat. For the part south of the road used as a street, which would be, if extended, a continuation of River Street, the value found on it is \$9 a square foot. For the piece, just a few feet away, facing on the river, on which is located the sheds of the steamboat company, the value is \$20.00 a square foot, and both are used by the same company, for the handling of their merchandise, and the deals on both pieces were made on the same day. So that you will readily recognize that it was the fact of the river connection that gave to the river front piece, double the value in the same deal.

A. M. McKAY.

Sec. HARRAH: Here is a communication signed by Ralph C. Otis, addressed to the committee under date of February 5, as follows:

WILLOUGHBY & COMPANY,  
Real Estate,  
7 W. Madison Street.

CHICAGO, February 5, 1912.

*Committee on Harbors, Wharves and Bridges, Chicago.*

GENTLEMEN:—It seems unfortunate that a property owner and citizen must always be on his guard against the encroachments of the Illinois Central Railroad in some form or other. This time, in the ordinance before your honorable body, the railroad comes to us under cover of the City Beautiful and the Commercial Club and all of this so-called "public-spirit-edness," and it is too bad that one vitally interested cannot speak in self defense without uncalled-for criticism by these business men who are doing so much for this, our city.

We are all, property owners or not, interested in the outer park and also the Field Museum; we are not all in favor of giving the railroad 200 feet additional right of way to be used as freight yards, switching purposes, or as the railroad sees fit, and thereby destroying five miles of property along the right of way. The property is already damaged, and it seems a pity that, when a better bargain might be made, this one should be allowed to go through, practically destroying the value of so much property which was purchased in good faith.

The valuation of the Real Estate Board on the railroad right of way is absurd on the face of it. An unobstructed right of way 700 feet wide extending into the center of this great city can hardly be estimated. The only way to get at this fact is to find out through the books of the Illinois Central the charge made to other railroads using the said right of way. Were you to look this matter up, you would be astounded to know the value placed on such property and the amount of bonds it will carry to assist in financing their projects.

As a large property owner, I protest against the haste with which this most vital question is trying to be settled for the people. Why push south the present condition of the lake front, only making it many times worse than by the present contract? Does any one cross the railroad right of way down town at the present time to the outer park? No! Will they cross at Eighteenth Street, with the 700 foot right of way? They certainly will not! The one idea seems to be the Field Museum, which is so blinding some men that they are unable to see the great damage they are doing to others and the city at large.

It seems reasonable to expect at least that the city could well afford to take the time to work out the ordinance of the Illinois Central Railroad, and not damage and probably ruin four miles of property abutting the railroad. A much better bargain could be made and I am surprised that experienced business men would allow their names to be a part of so one-sided a contract. There is plenty of time to do the work as it should be done. Let the Field Museum go where it belongs, in Jackson Park, and make the Illinois Central depress the tracks and build bridges, thus giving the people a view of the lake which is their right. If this is done, so that they will be forever out of sight (which I am sure they will be willing to do if they are allowed this additional right of way) many of the objections now raised will be withdrawn and those who are opposed to the proposition will be heartily in its favor.

Trusting you will give these ideas your consideration, I am,

Yours very truly,

RALPH C. OTIS.

The CHAIRMAN: Mr. Otis is here and I believe he has a word to say.

Mr. OTIS: Mr. Chairman, Mr. McKay, on last Friday made the statement that the corner of State and Madison Streets earned four per cent. on \$400 a square foot. Now, I do not believe that Mr. McKay handles business property. I do not believe he rents office buildings. I do not believe he knows anything about the renting of office buildings and the land upon which they stand. The corner of State and Madison Streets has the reputation all over the city of being the most valuable piece of property in the city. That may be, but the corner of State and Madison Streets, figuring interest on the building and the charges against it, does not earn four per cent. on \$200 a square foot, and I can prove it because I handle it and do the renting myself, and all these wild statements about the value of property in the City of Chicago by men who do not know are perfectly absurd. I simply wanted to correct the statement that people are getting for some properties fabulous return when they do not.

Sec. HARRAH: Here is a communication from Mr. Charles H. Wacker, addressed to the chairman under date of February 5, as follows, and there is attached a letter addressed to Charles H. Wacker, dated January 31, from the Municipal Voters League, Lessing Rosenthal, president, and Kellogg Fairbank, secretary, as follows:

MUNICIPAL VOTERS LEAGUE,  
556 Monadnock Block,

CHICAGO, January 31, 1912.

*Charles H. Wacker, Esq., 134 South La Salle Street.*

DEAR SIR:—Your letter of yesterday inquiring whether the Municipal Voters League is opposed to the ordinance carrying out the contract between the South Park Commissioners and the Illinois Central Railroad Company, was referred to the Executive Committee, which met today, and directed the following reply:

The League has taken no position either for or against the ordinance, and sees no reason for so doing, and would regret to have any alderman in-



*fluenced other than by the strict merits of the proposition.* The opinions expressed by any officer or member of the League are simply his individual opinions, and are not to be considered as an official statement of the League, which speaks only through the action of its Executive Committee.

By order of the Executive Committee of the Municipal Voters' League.

LESSING ROSENTHAL, *President.*

KELLOGG FAIRBANK, *Secretary.*

CHARLES H. WACKER,

206 La Salle St., Chicago.

New Number, 134 S. La Salle St.

CHICAGO, February 5, 1912.

*Hon. Harry E. Littler, Chairman, Committee on Harbors, Wharves and Bridges, City Hall, Chicago.*

DEAR SIR:—I enclose a copy of a letter which I addressed to the Municipal Voters' League, and also a letter in answer to it. They explain themselves.

You would confer a favor upon me by presenting the letter received from the Municipal Voters' League to your committee.

Sincerely yours,

CHARLES H. WACKER.

Ald. EMERSON: Mr. Rosenthal stated before the committee that he represented himself individually and not the Municipal Voters League.

The CHAIRMAN: What is your pleasure, gentlemen?

Sec. HARRAH: Mr. Hyers filed a petition that he would like to have read.

(Sec. Harrah read the following:)

"We, the undersigned property owners and citizens of Chicago, hereby enter our protest against the City Council of the City of Chicago ratifying a proposed agreement between the Commissioners of the South Parks of the City of Chicago, and the Illinois Central Railroad Company, whereby the I. C. R. R. Co. are to receive 200 feet additional right of way for surface tracks between Twelfth Street and Fifty-first Street, and hope the City Council will not pass an ordinance endorsing said agreement unless it be so modified as to put the I. C. R. R. Co. in a subway."

This is signed by Mr. George A. Hyers and thirty-eight other property owners. Attached to that communication under date of February 5, is the following:

CHICAGO, February 5, 1912.

*To the Honorable City Council of the City of Chicago.*

GENTLEMEN:—Representing, as I do, thirty or more property owners on Lake Avenue, owning a frontage of more than two thousand feet, in protest, and also representing the Ladies' Club, which organized two years ago to do away with smoke and grime and compel all railroads to electrify, I have attended nearly all meetings of your committee and listened to the various arguments, pro and con, on the City Beautiful Plan, and what are the conclusions?

1. What does the city get? A site for the Field Museum at Twelfth street, amidst smoke and grime, that in five years will destroy the great curiosities that have taken years of patient labor and expense to gather

together, and the privilege of paying in land, at the lowest estimate (that of the Real Estate Board), \$4,889,000 more than the museum building would cost to build, and the Jackson Park location has many advantages over Twelfth Street, as it is near the great Chicago University and commemorates the great Columbian Exposition, and is free from smoke and grime, and can be reached for a 5 cent fare by the I. C. R. R. in eight minutes, and by all electric lines and crosstown cars. If we are to have all the curiosities in Grant Park and on the lake front, why not bring the Zoological Garden from Lincoln Park and place it in Grant Park, where our country cousins might visit it without costing us car fare for them?

Let the contract already made be carried out and build the museum in Jackson Park.

2. We are to have a great dam, five and a half miles in length, built from 1,200 to 1,500 feet out in the lake from the shore line, from Grant Park to Jackson Park. This is to be called a boulevard, a parkway, a driveway, or something, and is to be connected to the streets by viaducts over a 700 foot lagoon, and from Thirteenth Street to Twenty-ninth Street over 660 feet of right of way of I. C. R. R. tracks; and from Twenty-ninth to Fifty-first Streets over 450 feet of I. C. R. R. tracks and 700 feet of lagoon; and each fourth of a mile we are to have a viaduct, varying from 1,360 feet to Twenty-ninth Street to 1,150 feet from Twenty-ninth to Fifty-first Streets, besides about 300 feet of street approaches, that will have to be condemned and paid for. There will be, if they are built as the ordinance provides, twenty-two of these viaducts, all of which will have to be traversed to reach this beauty spot, 660 feet of which to Twenty-ninth Street will be over I. C. R. R. switch yards, with their smoke and grime, and from Twenty-ninth Street to Fifty-first Street through 450 feet of the same thing.

Who would use such a City Beautiful, where not a tree or shrub would grow. Look at Grant Park today, 150 acres reclaimed land, and not a tree or bush there, a veritable desert.

Then they are going to take our beautiful lake away, on account of which most of us bought our land and built our homes and buildings, and give us instead a lagoon or pond, fed from the open lake by two or three openings through this great dam, which in two or three years will become a stagnant pond to breed mosquitoes and all sorts of malarial diseases.

As well take the Atlantic Ocean from in front of the property owners at Atlantic City, N. J., and who are going to pay for these twenty-two viaducts and approaches—the people whose lake they are going to destroy and whose beautiful lake they have had their homes along for from twenty to fifty years, and for which most of us paid more for our land to be near; and then ask us to allow us to have our property assessed to help destroy its value.

3. They tell us the improvement will cost us nothing and they can fill in this great dam without cost to the people, yet any of us who know anything, know that eleven miles of wall will have to be built out in the lake to retain this material, and so strong that it will withstand the winter storms, with millions of tons of ice for a battering ram and the waves of Lake Michigan for the power; and then the twenty-two viaducts from 1,150 to 1,360 feet long, with 300 feet street approaches, to be condemned and paid for, for each viaduct. Fifty million dollars would probably be a small estimate of its actual cost to the people.

The writer of this has for years been advocating putting the I. C. R. R. in a subway 450 feet wide and building a boulevard over their right of way, and connecting all the small parks, and all the streets at grade to this boulevard, and give all the people access to the boulevard and lake, and the cost would be nothing, comparatively speaking, to the dam scheme. And if they want a pier out in the lake, as they have piers at Atlantic City—out into the ocean—let them build them at Thirty-first Street or any other street, and as many islands as they want, but let our lake alone in its natural beauty.

Are we on the South Side suffering for parks? These men who are battling the hardest for this improvement are people from the North Side,

who know nothing of our small parks. We have from Thirty-third Street to Fifty-first Street, Groveland, Woodland, Douglas Monument, Ellis Park, Aldine Square, City Park at Thirty-ninth Street, Madison at Fiftieth Street, and Drexel Boulevard from Oakland to Fifty-first Street a continuous park, and Grand Boulevard from Thirty-fifth Street to Fifty-first Street a continuous park, and Washington Park, Midway and Jackson Park, which is by far the finest park in the city, and a place of all others better suited to be the home of the Field Museum.

A few years ago one of our neighbors, with the assistance of a few property owners on Lake Avenue, had a statute passed at Springfield authorizing the South Park Commissioners to open a boulevard from Twelfth Street to Fifty-first Street, keeping along the lake shore, starting at Twelfth and Indiana Avenue and working east until Lake Park Avenue was reached, then South on Lake Park Avenue to Groveland Park, and through it, Woodland and Douglas Monument Parks, into Lake Avenue at Thirty-fifth Street, and thence south on Lake Avenue to Fifty-first Street, east on Fifty-first Street to East End Avenue, and south to Jackson Park. The Park Commissioners claimed they had not the means to maintain another boulevard and declined to accept this. The promoter of this statute has since died, but the law has never been repealed. Why don't the park commissioners investigate this?

Mr. Charles Wacker says we are going to have 2,000 acres new land made in the lake—100 acres a year—twenty years to complete this beauty spot. Most of us will be gone to our long and last home before this would be completed. The project is almost as great as the Panama Canal, and would cost too much, and be of no use when done, as who would want to go 1,200 or 1,500 feet across a shaky, windy, smoky viaduct to get to a parkway to go from Grant Park to Jackson Park unless in an automobile?

4. We have no quarrel with the I. C. R. R., as they were here before we came, and while many of us have endured their smoke, noise and soot even with stifling yards in front of our doors (many of us having lived here from twenty-five to fifty years), we feel they should not be given any more surface tracks or switch yards in front of our property.

Mr. Charles Wacker, to the Council Committee, said the property along the lake from Twelfth to Forty-seventh Streets was of little value. A great amount of this property is owned for homes and occupied by the owners, who cherish them as sacred, and feel they have as much right to be protected in those homes as these promoters who live in palaces on the North Side have to protection in theirs, and to some of our people this little home is all they have, and why should it all be further polluted by giving the I. C. R. R. more than again as much right of way as they now possess and for what—as I have shown—we do not need and already have a site, viz., the Field Museum. To one who has listened to all debates, the I. C. R. R. are getting at least ten million dollars the best of this deal, and the people of the South Side are getting it in the neck.

I have said we had the I. C. R. R. here before we came, so were the American Indians, and the U. S. Government drove them out. Perhaps if we appeal to the U. S. Government we may drive the usurpers of our rights out also. It has been said during these debates that the city has power to make the I. C. R. R. submerge their tracks and the park commissioners the right to condemn for boulevard purposes. Then why do we not do this, instead of sacrificing our manhood to a soulless corporation, and give back to the people their lake front, unpolluted by smoke and grime, or else let us keep what we now have and rest in peace.

Believing the Council will protect the interests of the people who pay the bill in preference to a lot of promoters, we sign ourselves,

LAKE AVENUE PROPERTY OWNERS.

Ald. BLOCK: Have you any figures at hand showing the cost of this improvement?

The CHAIRMAN: No, sir, it would be almost impossible to estimate the cost.

Ald. BLOCK: Is it so great it cannot be estimated?

The CHAIRMAN: You know what the cost of viaducts would be.

Ald. KUNZ: Now, Mr. Chairman, it seems to me, before we proceed with the consideration of this ordinance, we should take into consultation the Corporation Counsel. I believe he ought to be sent for.

The CHAIRMAN: A representative of the Corporation Counsel is here.

Ald. KUNZ: I would like to ask the Corporation Counsel if it would not be possible to render an opinion to this committee. I move that the Corporation Counsel be instructed to render an opinion to this committee as to the riparian rights.

Ald. BRENNAN: Ald. Long claims he cannot do that on account of this law suit.

Ald. KUNZ: He can give us an opinion as far as he could go. You don't want to be on record as voting for something you do not know about.

Ald. BRENNAN: No, sir, I do not.

Ald. KUNZ: Could not the Corporation Counsel give us some idea as to what show the City of Chicago has with reference to the Illinois Central. If the Corporation Counsel says the city has rights we should know what they are, and what rights the Illinois Central has.

Ald. RYAN: I take it from the arguments presented by Ald. Long that the Corporation Counsel is not in position, because of this suit that has been filed, to give an opinion, that he can only render one opinion, and that opinion is before the committee.

Ald. KUNZ: That the opinion would be that the city has rights there. Why should the members of this committee go against that opinion and take upon themselves the blame of doing something that the Corporation Counsel advises them not to do?

Ald. RYAN: The City of Chicago has certain rights there according to a statement made by Ald. Long, but not sufficient to be of any particular moment, I gather.

Ald. HEY: Is it not a fact that the suit was started upon the opinion of the Corporation Counsel?

Ald. LONG: Every member of the Council has a printed copy of the report. They said they believed it was a proper case for litigation.

Sec. HARRAH: Here is a communication from Martin Schutze, as follows:

1375 E. 57th St., CHICAGO, February 3, 1912.

*Dr. Willis O. Nance, Alderman, Sixth Ward, Chicago.*

MY DEAR DR. NANCE:—I have come to the conclusion, after careful consideration, that the agreement regarding the South Shore Drive now before the Council, while it insures certain immediate advantages to the city, yet would prove in the long run highly unprofitable, and dangerous to our city, and I request you to cast your vote against it and do what you can to defeat it.

Let me say at the start that I have no intention of criticising the men who negotiated the agreement for the city and who support it now. I know several of them personally and have the highest regard for their characters and motives. It is purely the objective question that is at issue. The supporters of the agreement say that the drive, the location of the Field Museum down town, and other improvements involved in the agreement, are of extreme importance for the growth and welfare of the city, and I agree with them heartily and enthusiastically. But I draw from my feeling for the welfare of our city conclusions opposite to theirs. It is a fundamental principle, without which government becomes a farce, that no private interest has any standing before a great interest of public welfare. The right of condemnation for a fair consideration is at the heart of the sovereignty of any community. The withholding of the right of condemnation from Chicago by the Legislature of the State is such an enormity that once the people are thoroughly aroused to the unrighteousness of it, even the I. C. R. R. lobby will be unable to stop the granting of it to the proper park commission of Chicago.

We want the museum down town. We want the drive. But shall we therefore do as Esau did? Esau also wanted his mess of pottage, he wanted it badly, and he did not wish to delay, and he sold his birthright. Esau has been, throughout our modern world for more than two thousand years, the type of the man so lacking in outlook and in integrity of purpose that an urgent present need makes him turn from the greater promise of the future.

Our birthright is the right of condemnation, the right as well as the duty to teach all our citizens, including the I. C. R. R., public integrity and a large patriotic outlook. If we sell that birthright now for this very selectable mess of pottage we have lost our future, at least in our dealings with the I. C. R. R. We know enough of the I. C. R. R. to be entirely certain that in its future dealings with us, it will, as to hard greed and unscrupulous cunning, make Jacob look like teacher's pet in the kindergarten. We shall have lost our lake front forever, and whenever we shall want something very much in the future we shall have taught the I. C. R. R. how to make us bargain for it.

Very truly yours,

MARTIN SCHUTZE.

Sec. HARRAH: Here is a communication from Isham Randolph, under date of January 25, as follows:

ISHAM RANDOLPH & CO.,  
Consulting Engineers,  
826 First National Bank Bldg.

CHICAGO, January 25, 1912.

*The Committee on Wharves, Harbors and Bridges, City Council of Chicago, Illinois.*

GENTLEMEN:—As a question of law, property to be condemned is estimated at its highest possible use to the owner, not what it may be worth to the condemning power. If this is good law, then how would it be possible for the Illinois Central Railroad to get large damages from the State or city for its riparian rights? The railroad company cannot create an acre of

ground on the lake side of its right of way line, nor can any purchaser of its rights make them available without enabling legislation by the State; and even that action must be subject to federal restraint. Where then is the great value to the Illinois Central Company? The so-called rights of that company serve to cloud the title to the submerged lands but a condemnation under legislative authority would dissolve that cloud, and the company would be no worse off without the rights than it is today, and that principle of law which says *that the owner shall be no worse off after the taking of his property than he was before*, would be fully satisfied. The cloud has a trading value, but the measure of that value should be the cost of dissipating it.

Chicago—not the South Park Commission—should own that lake front and should use it for the highest use to which it can be put, whether that use be commercial or scenic and pleasurable. Mayor Harrison is quoted as saying: "This is not a dollars and cents question. It is a question of giving a breathing spot to two and a half million people. Now they have nothing but the back yard of a railroad company and are subject to being charged with trespassing when using it."

Is the whole population of Chicago pent up west of the rails which bar access to the lake front between Park Row and Fifty-first Street? What has become of the open reaches between Fifty-first Street and Jackson Park? Has Jackson Park become a factory district? What has become of the open reaches between Jackson Park and South Chicago? What has become of Grant Park? Are there no open reaches on the North Side south of Lincoln Park? Has Lincoln Park been given over to the utilitarians for stock yard purposes? Of the twenty-two miles of lake front is it true that all that is left to the people is the four miles between Sixteenth Street and Fifty-first Street? How many of the two and one-half million people of Chicago would ever use the drive and parkway between Fifty-first and Sixteenth Streets? What percentage of this population owns automobiles? The coach of the people does not run on boulevards. The legend "Pay as you enter" adorns no vehicle that travels the roads of beauty and of pleasure.

Let Chicago secure these riparian rights at their value to the Illinois Central Railway, and in the meantime decide whether the city cares more for beautiful drives than it does for lake commerce.

The proposed new depot of the Illinois Central is a project which the city should foster and aid; for improved terminals are of vast importance to the attractiveness and prosperity of the city, and certainly the Illinois Central terminals ought to be improved, but not at the cost of any vital interest of the city such as the possession and use of its lake front.

Respectfully submitted,

ISHAM RANDOLPH.

Sec. HARRAH: Here is a communication from G. Fred Rush, as follows:

RUSH & HOLDEN,  
Attorneys at Law,  
1110 Title & Trust Bldg.

CHICAGO, February 1, 1912.

*Alderman Willis O. Nance, City Hall, Chicago.*

DEAR SIR: In reply to your request and for the purpose of limiting the use of the Illinois Central's increased holdings between Thirty-first and Fifty-first Streets for railroad purposes only, so as to prevent the use of the land for the construction of warehouses, freight depots, factories, grain elevators, flat buildings, hotels, etc., and to prevent the land from being used for car storage tracks or for general switching tracks, or for freight depots or freight yards, or for car repair tracks, or for round house yards; that is to say, for the purpose of compelling the Illinois Central to use the increased holdings south of Thirty-first Street for the same railroad purposes as is

the case at present, I suggest the following new wording of the proviso at the end of the second paragraph in Section 9 of said proposed ordinance.

"Provided, however, that subject to any leases in force Dec. 1, 1911, if any there be, all submerged, penetrating and made lands and other lands, lying west of the proposed boundary line and east of the west line of the present two hundred (200) foot right of way of the Illinois Central Railroad Company, between Thirty-first and Fifty-first Streets, shall not be used for tracks, nor for general switching purposes, nor for car repair tracks, nor for freight depots or yards, nor for round house yards, nor for any railroad purposes, other than for freight and passenger car tracks, emergency switches and turnouts and for passenger stations, without the express consent of the City Council of the City of Chicago."

On page 7 of the opinion of the Corporation Counsel, dated Jan. 16, 1912, it seems to be thought that under Section 9 as at present written, the company is limited to use the land between Thirty-first and Fifty-first Streets "only for tracks, switches, turnouts and passenger stations."

It is doubtful whether Section 9 as it reads at present does limit the use of the land for "railroad purposes" only, and it is doubtful also whether the company is prohibited from using the land to construct warehouses, freight depots, factories, grain elevators, flat buildings, hotels or other buildings for general commercial purposes. I find no restriction in Section 9 limiting the use of the land for railroad purposes only. The city "consents to the use" of the new land "for railroad purposes."

I have given the matter a very hasty consideration because of very pressing business engagements, but I think you will find from a careful reading of Section 9 in question that the road is not limited to use the new and old land in question between Thirty-first and Fifty-first Streets for railroad purposes only, but is simply limited not to use the land "for any railroad purposes, other than tracks, switches, turnouts and passenger stations." And the present language will permit a switching yard unless changed.

Yours truly,

G. FRED RUSH.

Ald. LONG: Mr. Chairman, and Gentlemen of the Committee, I deem it only proper at this time that I should make a few remarks giving you in a brief way my understanding of the situation of this matter from its inception to the present time. I will endeavor to be brief.

I think possibly I ought to say that I probably have been more closely identified with this matter than any other member of the City Council, and I have acquired by reason of that identification some facts and interesting data that I can only convey to you by a brief statement.

First, I wish to express my appreciation and commendation of the almost universal good will that has characterized this hearing on the part of the members of the committee and those who have had the patience to present the matter to us. Indeed, it has been rather surprising to me that there has not been more expression of feeling, because a matter of such great importance, involving such a variety of issues and interests, would naturally tend to create more or less feeling in the minds of people and a serious difference of opinion. So far as I am personally concerned, I wish to say at this time that I am very glad indeed that I do not entertain the least feeling against anyone, and it is

indeed complimentary to the committee and to those who have appeared here at this time that the hearing has been conducted with such universal good feeling.

I am reminded at this time of an expression that a great essayist, Lord Macauley, once made use of in one of his essays. As I recollect it, he said that it is a great deal easier to organize a successful opposition than to run a government, and that is to a certain extent true in every great constructive measure. It is easier to organize an opposition, to formulate serious obstructions than it is to carry through successfully a constructive measure, because every constructive measure necessarily antagonizes the ideas of many people who get together for the purpose of obstructing the proper execution of that constructive measure. In saying this, I do not mean that honest criticism is not a good thing. Criticism always brings out the facts, and no one can go further than I would go in my appreciation of the splendid presentation of the case that has been made by Mr. Rosenthal and Mr. Morton D. Hull, the gentlemen who have opposed this measure. I believe that they are inspired by the highest motives of citizenship and by a desire only to give this committee their best opinion in their position. I cannot entirely agree with some of the remarks that have been made by them, neither can I entirely agree with some of the remarks made by the learned gentlemen who presented the arguments on the other side. I have in mind especially the remarks of one eminent citizen who unfortunately used the remark that the aldermen who voted against this measure would be consigned to the uttermost depths of hell, because, I believe, that, whether the aldermen vote this ordinance up or down, the alderman will be judged in his vote, not by what somebody may think of this measure, but by what the measure in itself is on its merits. In other words, we must judge in our final adjudication of this matter not by the prejudices expressed here on one side or the other, but by the actual merits of this measure. I propose, therefore, to address myself briefly to the merits of the measure as a constructive proposition for this city to consider at this time.

My interest was first attracted to the lake shore, as some of you gentlemen know, after I came into the City Council more than two years ago. Some of you who served upon the License Committee will recall the fact that our committee was invited to consider an application which had been made by a certain syndicate for the establishment of a bathing beach at Manhattan Pier or Manhattan Beach on the South Side.

The committee went out to this beach en masse. We were there met by the aldermen from that ward and a large delegation of citizens. The result of that meeting was an ordinance



which prohibited the installation of bathing beaches except upon a petition containing a majority of the frontage of persons interested in the immediate neighborhood. That was the beginning of the ordinance that refers to bathing beaches. While that ordinance had for its purpose the prevention of the establishment of an amusement pier at Manhattan Beach, it suggested to several of us upon that committee that there ought to be something done to provide for bathing beaches on the lake shore. Up to that time the city had made little progress in the installation of bathing beaches. It had one little beach at Twenty-fifth Street and one at Seventy-ninth Street, the one at Twenty-fifth Street being on leased ground and the one at Seventy-ninth Street being on ground owned by the city. Consequently an order was reported into the City Council providing for the appointment of a committee on bathing beaches and amusement piers along the lake shore. We made a detailed study of the shore from the Saddle and Cycle Club on the North Side to Seventy-ninth Street on the South Side, and we reported a comprehensive scheme for the improvement of the lake shore with reference to bathing beaches, providing for seven beaches in all, beginning at Montrose Avenue, on the north end, and ending at Seventy-ninth Street, at the Illinois Steel Company on the South Side, and in the investigation and study of this question it developed to a few of us upon that committee that the great drawback and great difficulty to any substantial progress on the lake shore lay in the fact that the lake shore was in the possession of private parties and the city could only acquire possession by lease or sufferance, and there was no power in the city to get possession except by purchase, and no funds for that purpose; so it was deemed desirable to go a step further. The result was an order prepared by me and introduced into the City Council a few weeks later, providing for the appointment of the Lake Shore Reclamation Commission with power to investigate the titles on the lake shore and institute legal proceedings for their reclamation. This commission proceeded with its work with a meager appropriation, and after a thorough investigation on the part of the Corporation Counsel's office, covering the entire lake shore from Twelfth Street to Jackson Park, the part of the lake shore now in controversy, it was deemed advisable to bring suit. We found that the entire lake shore from Twelfth Street to Fifty-first Street was in the possession of the Illinois Central except about 400 feet at Twenty-ninth Street, which was in the possession of the Walker Estate, or the Stephen A. Douglas heirs. The balance of the lake shore from the Chicago Beach Hotel to Jackson Park was in the possession of six other claimants—the Beach Hotel, the Pullman Estate, Jones *et al.*, Brega *et al.*, the Shedd,

and the Lehmann Estate. After a careful investigation we filed seven suits in chancery or seven bills in equity against these seven claimants, feeling that we had a reasonable ground for the maintenance of our suits. The case against the Illinois Central involves the largest amount of property, about 20 acres, and the largest amount of riparian ownership, about four and a half miles. We found that our case against the Illinois Central was not so well supported by the facts as were our cases against the other parties; that is, we felt there was a sufficient basis to bring suit, but we never felt as sure of our ground as we did in the other cases, consequently the Illinois Central case was not pushed as vigorously, hoping that by delaying the time of trial we could acquire more data, more facts, and possibly put ourselves in a position to make a better showing when the matter came on for final trial. The other cases went to issue within a short time, and in nearly every one of these cases, there was a proposition made to us to compromise. It is not necessary to go into these other cases; they are not involved in this matter except as a matter of history. They are now in a position where propositions have been made to us on a basis of a division of the made land between the claimants and the State.

The Illinois Central demurred to the bill and I want to say that personally I had nothing to do with the conduct of the legal proceedings. This was a matter entirely in charge of the Corporation Counsel. I directed myself to the administrative side of the proceedings, as chairman of the Lake Shore Reclamation Commission, and I assume no responsibility for the legal situation or pleadings, that being a matter as I said before wholly within the hands of the Corporation Counsel. The bill was demurred to and the demurrers sustained, and we found there was some serious doubt as to whether we could make out a case that would stand in court. I am talking now plainly because I think you are entitled to know the facts. We immediately went to work with our expert and had a survey of the entire lake shore made in the hope that we might find something to stand on—something somewhere along this four and a half miles. We gathered all the data we could find. We had a complete map made of the shore line, showing the various holdings at the time, and an abstract made of the title claimed by the Illinois Central Railroad Company, showing that they owned the fee to a large portion of the shore. The bill was subsequently amended, was it not, Mr. Skinner?

MR. SKINNER: The demurrer was sustained on the ground that there was no specific tract specified, no metes or bounds, and that it was necessary to have an abstract in order to deter-

mine and locate those tracts, but the amendment has not been prepared yet.

Ald. LONG: Then it is in process of preparation. So, as the matter now stands, the city must either amend its bill—so as to make out a case, at least a *prima facie* case, or be out of court. Now as to whether we can present a bill that will stand the test, and as to whether we can win out after we present a good bill, are questions of course that I cannot assume to answer. You gentlemen know as well as I do the uncertainty of a law suit. If we are forced to try it, we will make the best fight we can, and if we are defeated in court we will have to take our medicine. We have always hoped that we would find some means to win out. I want to say frankly to you that there is always a large element of doubt in a proposition of this kind, and that is one of the reasons that led me to believe that a good compromise would be a wise thing to make. Gentlemen, I practiced law more than twenty years—I am not practicing now—and I have always found it a good thing to advise my client in a doubtful case to make the best settlement possible. I believe that has been the policy of the most successful lawyers at the bar. Where you have a questionable case, that you are not absolutely certain about, it is the wise thing to make the best possible settlement. I went into this proposition with that idea in view. My idea was that if we could make a good fair settlement, it would be infinitely better than to try to win a long uncertain law suit that might eventually lead nowhere.

I realize that the city has no right to condemn these lands for park purposes—no right to exercise the right of eminent domain to acquire the riparian rights, and that the Park Board has no power to exercise the right of eminent domain for any such purpose, and consequently when the proposed settlement was first suggested to me by Judge Payne, some months ago, I naturally favored it as the most rational thing to do, under the circumstances. I said to him then: “Judge Payne, I think it is a fine thing.” He asked me what I thought about the granting or the conceding to the Illinois Central an additional strip of land. My reply was that I did not regard the land as the essential thing, what we wanted most was the riparian rights and the right to make land, that if we once had the riparian rights, we could make all the land the city wanted, and therefore I would not stand on a question of 150 or 200 feet or 300 feet personally, if it was required in the adjustment of this matter. I realized that, under the present conditions, the waste of the city amounts to about twenty-two acres of made land a year in fourteen feet of water, seven feet above the surface,—so the engineers tell me—that we would be exercising an economy that in effect would

result in giving us the beautiful lake front, and giving us what we have been struggling for for the last twenty years.

Now understand, gentlemen, I do not want to be put in the position of saying that this is the best thing to do if we had the power to condemn these riparian rights, but I believe, under all the circumstances, with our rights limited as they are, it is a good compromise and on the whole the very best thing the city can do at this time.

My attention was next called to this subject a little later when Judge Payne notified me that he would like to have a conference in the Mayor's office. There were certain conditions that I wished to have imposed at that time. Just before I touch upon that, however, I want to say briefly, as a matter of history, that the Act authorizing the Illinois Central to lay its tracks on the lake shore was passed in 1851. The City Council passed an ordinance in 1852 giving the Illinois Central the right to a right of way 200 feet wide on its present trackage. At that time you will understand the Illinois Central had nothing but an easement, or right of way, and had it not acquired any further rights than that, there would have been no question about the riparian rights today, but the Illinois Central, like any well regulated organization, eager to protect its interests, quietly during the last fifty years, went along the lake shore from Twelfth to Fifty-first Street and bought up by private contract, receiving deeds for every piece of land from Twelfth to Fifty-first Street except the one single piece of land owned by the Stephen A. Douglas heirs, known as the Walker tract, so that the Illinois Central today has or claims to own the fee and not the mere right of way, and the fee carries with it riparian ownership. How far trespass may effect title is a question. Some will argue that because the land was filled in wrongfully in some places, that therefore the trespasser has forfeited its riparian rights. Some cases hold that wrongfully filling makes a forfeiture of the claimant's riparian rights. But whatever those rights are, they are uncertain and indefinite, and I want to impress upon you, gentlemen, that it is because of that uncertainty and indefinite condition, that we are here with this proposition of settlement.

When I was called into conference in this matter, I said to Judge Payne, representing the South Park Commissioners, that the city has certain things which it must demand as conditions precedent in this settlement. If those things are taken care of, I believe so far as I am concerned, speaking for the Lake Shore Reclamation Commission, I would favor it, and the things which said commission demanded are the following:

1. The right of the city to locate a harbor between Twenty-

second and Sixteenth Streets on the submerged lands adjacent to the proposed made lands of the South Park Commissioners.

2. The right reserved to the city of adequate access to said harbor by viaducts for street and railway purposes across the lands of the Illinois Central Railroad Company and the South Park Commissioners between Sixteenth Street and Twenty-second Street and also at Forty-first Street.

3. Right of way reserved to the city for railroad tracks from Forty-first Street north to Sixteenth Street east of the lands of the Illinois Central Railroad Company.

4. The right granted by the Illinois Central Railroad Company to the South Park Commissioners, or to the City of Chicago, to extend South Park Boulevard across the railroad tracks and railroad lands at Twenty-second Street in an easterly or northerly direction by a viaduct the full width of said boulevard, so as to connect with the park lands east of the lands of the Illinois Central Railroad Company.

5. A limitation upon all submerged, made and other lands lying west of the proposed boundary line between the Illinois Central Railroad Company and the South Park Commissioners, and east of the west line of the present 200-foot right of way of the Illinois Central Railroad between Thirty-first and Fifty-first Streets, restricting the use of said lands to tracks, switches, turn-outs and passenger stations only, unless otherwise authorized by express consent of the City Council.

6. The obligation of the South Park Commissioners to install and maintain in perpetuity two public bathing beaches between Twenty-second Street and Jackson Park on the shore of Lake Michigan.

7. The obligation of the South Park Commissioners to install and maintain a public pier for passengers and excursion boats at or near Twenty-second Street.

Now those are the things we demanded for the city. Those were the things that we were organized to accomplish. That is what our commission wished to do—to get possession of the lake shore for the purpose of bathing beaches and play grounds, and I felt that if we succeeded in establishing two bathing beaches on the South Side like the one at Lincoln Park and Diversey Boulevard, with a beautiful pier for recreation purposes and excursion boats, and accomplished the extension of South Park Boulevard across the tracks into Grant Park, that we had attained the essential things that our commission was organized to accomplish.

At that time there was nothing said, as I recall it, about any restriction on the use of the lands of the Illinois Central. It did not occur to me at that time, but at a subsequent meeting

when this matter was further under consideration I suggested the further concession, namely a restriction on the use of the lands to be acquired by the Illinois Central, because under the Act of 1907 the title that would pass to the Illinois Central under the proffered agreement was a fee absolute and indefeasible, a title different from any that the company had acquired as a railroad in acquiring its right of way, a title specially provided for under the Act of 1907. Mr. Littler and I both referred to this, and insisted that the Illinois Central must be restricted in the use of its lands. We sat down around a table: Mr. Blewett Lee, the attorney for the Illinois Central Railroad, Mr. Maclay Hoyne, the attorney for the city, Mr. Robert Redfield, the attorney for the South Park Board, Mr. Littler, the chairman of this committee, with a view of drawing up an ordinance so as to provide a proper restriction as demanded by us. Mr. Lee stated that in his opinion there was no use in insisting upon any such restriction because his client did not intend to use the submerged land for anything except railroad purposes; that its plan would be, in the event of a settlement, to move its present tracks over to the east side and use the present right of way for such railroad improvements as were contemplated. Not until then did it occur to me that it was necessary to restrict the use of the present right of way. I spoke to Mr. Littler about it and said to Mr. Lee, "I think under the circumstances this restriction should cover the present right of way as well as the lands to be acquired." Mr. Lee was not agreeable to my suggestion and the conference practically terminated at that point.

The ordinance was prepared; it was late in the evening of December 18, 1911, and it was suggested that it be brought down and presented to the committee. The committee was in session and had been in session that afternoon for the purpose of considering the ordinance. Mr. Littler and I both thought it was an ill-advised thing to present the ordinance to you at that time, but as a matter of courtesy to others we presented it, and you know what followed; so the ordinance has been under discussion in this committee ever since. When it came up for consideration at a later meeting of the committee December 23, 1911, it was referred back to the Corporation Counsel for revision, and in this revision a number of changes were made for the better; one especially was the one I have just spoken of in the original ordinance. The original ordinance was not prepared so as to cover any restriction as to the use of the present right of way. My idea was at that time, that if the ordinance went into the Council as originally presented, it could be there amended, but I think it is a great deal better that the amendments have been made insofar as they could be made, in the

preparation of what is known as the new ordinance, or the ordinance submitted with the opinion of the Corporation Counsel.

Now as to the recommendation of any ordinance at this time: A great deal has been said about the price of the land and the value of the land, and a great deal of unnecessary calculations have been gone into for the purpose of showing us on the one hand that the Illinois Central was getting a tremendous bargain and on the other hand that they were not getting very much of value. From my standpoint the question of land values never seemed to me as being the essential element in the case, the real desideratum being the proposition as a whole, and the opportunity it gave to the city to adjust a very troublesome problem. Mayor Harrison, as Mayor, and Mr. Sexton, as Corporation Counsel, will be succeeded by others less enthusiastic in their desire to acquire the lake front. Political administrations change every few years and unless we get substantial results in the adjustment of this shore matter during the present administration, we have no assurance that we will ever get them at all. You gentlemen know the experience we have had with litigation in important matters of this kind. While this administration may be eager and desirous of accomplishing results, and desirous of carrying this litigation through to a conclusion, the next administration may not feel disposed to do so, may not give it that enthusiastic support that we are giving it today, and then, too, there is always the element of uncertainty. The Illinois Central, as a well organized corporation, never sleeps. Its legal department is on the alert day and night, week in and week out, but the city's interests pass into the hands of strangers; new men must be broken in. I do not expect to continue in this work all of my lifetime; neither can we expect Mr. Sexton, the Corporation Counsel, to do so, and we do not know how soon political changes may render nugatory a large part of our work. In view of these uncertainties, the uncertainty of political administration, the uncertainty of following up a long series of litigations, because we know that if we win in the courts below it is only the beginning of an eight or ten years' legal fight, an amicable adjustment of the matter is much to be preferred. An adjustment on a fair basis is better for the present generation, better for the aldermen and better for the people as a whole.

Just a word further on the question of the ordinance: I believe the thing for this committee to do is to report out such an ordinance as they think right. If the proposed ordinance is not right, let us make one that is right.

A good deal has been said here by my friend Mr. Rosenthal about depressing these tracks. I have taken the view of an engineer upon that matter, and he advises me that the tracks can

be depressed seven feet without any serious engineering difficulty. At Thirty-first Street the elevation of the present street is about eight feet above the Illinois Central tracks. Seven feet added to that would give us fifteen feet depression. Our viaducts provide for nineteen feet in the clear which would leave a rise of about four feet at Thirty-first Street, and nobody could take any exception to that, and I believe the thing for this committee to do is to report out an ordinance, and if the Illinois Central does not accept it, they must take their medicine and we must fight it out the best way we can, but let us do something now. Let us not delay the proposition. Let us not dodge it or duck it by calling for an opinion of the Corporation Counsel. That means running away from the proposition before us. Let us dispose of it now, and do it right if we believe it is right. If we can depress the tracks seven feet let us depress them between Thirty-first and Forty-eighth, and at the same time if we think the Illinois Central is getting too much land between Thirty-first and Forty-eighth, let us reduce the amount. There will be no criticism upon us for that, whether the Illinois Central accepts our proposition or turns it down. I do not believe that Mr. Rosenthal or any of the gentlemen he represents would raise any exception at all to such an ordinance. I do not believe the people of Hyde Park would raise any exception if we depress the tracks seven feet and cut off 50 or 75 or 100 feet from the proposed grant of submerged lands between Thirty-first and Fifty-first, because if you do that, it eliminates absolutely the possibility of ever establishing any great freight yard in that section of the city, and there can be no sane objection, no reasonable objection to the establishment of the freight yard north of Thirty-first or Twenty-ninth, because that is in the business district, and if we put a harbor there people will establish all kinds of business there, including freight yards. It seems to me the argument is entirely logical to give the Illinois Central Railroad the land it needs north of Thirty-first. But whatever we do, let us do it now, so that something may be accomplished while we are yet alive, and so that we may see some of the benefits of this great problem actually accomplished.

Gentlemen, I trust you will pardon me for taking up so much of your time, but I felt it was only fair to you to make this statement. These are in brief the things we ask to have guarded in this new ordinance, as set forth in a letter written by Chairman Littler to the Corporation Counsel:

1. The right of the city to locate a harbor between Twenty-second and Sixteenth Streets on the submerged lands adjacent to the proposed made lands of the South Park Commissioners.
2. The right reserved to the city of adequate access to said



harbor by viaducts for street and railway purposes across the lands of the Illinois Central Railroad Company and the South Park Commissioners between Sixteenth Street and Twenty-second Street and also at Forty-first Street.

3. Right of way reserved to the city for railroad tracks from Forty-first Street north to Sixteenth Street east of the lands of the Illinois Central Railroad Company.

4. The right granted by the Illinois Central Railroad Company to the South Park Commissioners or to the City of Chicago to extend the South Park Boulevard across the railroad tracks and railroad lands at Twenty-second Street in an easterly or northerly direction by a viaduct the full width of said boulevard, so as to connect with the park lands east of the lands of the Illinois Central Railroad Company.

5. A limitation upon all submerged, made and other lands lying west of the proposed boundary line between the Illinois Central Railroad Company and the South Park Commissioners and east of the west line of the present 200-foot right of way of the Illinois Central Railroad between Thirty-first and Fifty-first Streets, restricting the use of said lands for tracks, switches, turn-outs and passenger stations only, unless otherwise authorized by express consent of the City Council.

6. The obligation of the South Park Commissioners to install and maintain in perpetuity two public bathing beaches between Twenty-second Street and Jackson Park on the shore of Lake Michigan.

7. The obligation of the South Park Commissioners to install and maintain a public pier for passengers and excursion boats at or near Twenty-second Street.

When the Corporation Counsel drafted this new ordinance he had Mr. Littler's letter before him and all these matters have been covered. And I want to impress upon this committee that everything that we were appointed to accomplish as the Lake Shore Reclamation Commission in the establishment of bathing beaches and the acquiring of the lake shore have been accomplished in this ordinance contract. If the ordinance contract is seemingly liberal in its terms and gives the Illinois Central what seems to be of great value, I believe we can well afford to do it. Suppose we proceed upon the other proposition of condemning these lands, that will cost several millions of dollars. Don't you think it would be better to give 200 feet that costs us nothing than to dig into our pockets and give the company several millions of dollars, in payment for their claimed lands?

I hope this committee will see this in the same light I see it, and be willing to sit around this table and work out an ordinance

that will give substantially what the Illinois Central is entitled to, and retain for the city such rights as it ought to have.

Gentlemen, I thank you.

Ald. EMERSON: May I ask a question, Mr. Long? Suppose this proposed ordinance was passed, now there are two things that might happen, first, the government might refuse to give their consent to the filling in. Another thing might happen, that the people might refuse to vote bonds to defray the expenses. Then we would be up against this proposition: The Illinois Central would have their widened line and we would have no parks. We would pass an ordinance and give this extra width, but after the government refuses and after the people refuse to vote a bond issue, the Illinois Central would have all they were wanting, and we would have nothing. Would not that be true?

Ald. LONG: The government will not refuse.

Ald. EMERSON: You do not know.

Ald. LONG: I have consulted with the Federal engineer in charge and he says there is no question about it.

Ald. EMERSON: How about the people on the bond issue question, can you answer for them?

Ald. LONG: I assume that the South Park Commissioners will raise the money necessary to make the improvements contemplated.

Ald. EMERSON: It will be \$50,000,000.

Ald. LONG: I do not think it will be one-tenth of \$50,000,000.

Ald. EMERSON: Say \$5,000,000.

Ald. LONG: The South Park Board is composed of responsible men, they know what they are about; they are not a lot of school boys; they know what they want to do and it is up to them to make these improvements.

Ald. EMERSON: Will we not have to have a bond issue to carry on this construction?

Ald. LONG: They may have the money.

Ald. EMERSON: They would not have \$5,000,000.

Ald. LONG: They may have \$1,000,000 and they could start it with \$1,000,000.

Ald. EMERSON: You know this is a pretty big improvement; it will cost more than \$5,000,000, nearer \$50,000,000.

Ald. LONG: I assume they will have to have a bond issue. There is one matter I overlooked. This ordinance as now presented is somewhat objectionable. It does not meet my views entirely. When this matter first came up I felt that the ordinance should cover only those things which are provided for in the powers of the Park Commission. The ordinance, however, goes further; it goes into the vacation of streets, into the location of tracks and into the extension of Grant Park at Twelfth

Street, the widening of Twelfth Street. I think those things might be properly eliminated. I think that the thing for us to do is to prepare an ordinance simply providing for the adjustment of the shore line on such terms as we think fair between the Illinois Central and the city and let it go at that, and that will dispose of the great question involved in this matter; let all other questions take care of themselves when they come up for consideration,—when they are presented to us. Let us not attempt to do too much at one time, but let us adjust this principal matter because it is the thing that we are vitally interested in, the thing I would like to see settled during my political life, if possible, and unless we adjust it upon some basis of fairness between these parties now, the chances are we will never see it settled. If we can eliminate this whole question of depot and the widening of Twelfth Street and the extension of Grant Park and the vacation of streets, and simply provide for the determination of the lines of division between the Illinois Central and the South Park Board we will have accomplished a great step in advance, and we will have given to the Park Board a chance to develop that will be a credit to the city, and to every man who has had an opportunity to assist in furthering this splendid project.

Ald. EMERSON: You would want to eliminate the vacation of the streets and the extension of Grant Park and so on, and just treat with the shore line and the Illinois Central; why would it not be a good idea to pass an Act in the Legislature like you did on the harbor condemnation proceeding?

Ald. LONG: That simply means delay. Are you willing to go to the Legislature and lobby a bill through?

Ald. EMERSON: Certainly I am.

Ald. LONG: I am not.

Ald. EMERSON: It did not delay your harbor proposition when you wanted to condemn land for harbor purposes.

Ald. LONG: Do you think you would be any further on after you procured legislation? Suppose we revise this ordinance so that it meets our views and adjusts the shore line fairly between the railroad and the public. Nothing more could be accomplished by legislation. Indeed legislation would only cause delay.

Ald. EMERSON: Why do you think it advisable to take out the vacation of streets?

Ald. LONG: In order to simplify the proposition before us. I want to reduce it down to one essential thing.

Ald. EMERSON: You know it was stated here the other day by people opposing it that the Illinois Central would not accept any ordinance.

Ald. LONG: I do not care what the Illinois Central may do;

that is no argument either for or against the merits of the proposition.

Ald. EMERSON: Mr. Donnersberger said that they would not agree to electrifying or depressing their tracks.

Ald. LONG: Let us pass a good ordinance, one that we think is right. If the Illinois Central turns it down, we will have done everything that we could do.

Ald. EMERSON: I think if you eliminate the depot question and the vacation of streets, then your better plan is to go to the Legislature.

Ald. LONG: That would simply mean that we duck the whole proposition. I think it is up to us to do something; let us not be afraid to do what is right in this matter.

Ald. EMERSON: We are getting our rights then.

Ald. LONG: We do not want to wait until the next generation to settle this matter. I would like to see it settled now.

Ald. EMERSON: It did not take you long on the harbor proposition.

The CHAIRMAN: It is not settled. There will be a vote upon that.

Ald. EMERSON: The people will vote that down on the bond issue.

Ald. LONG: By simply referring this matter to the Legislature means ducking it by us. There will not be a session inside of a year from the coming winter. If we fail to get any legislation, nothing can be done, and we will then be in the same position we are now.

Ald. KUNZ: You mean about the power to condemn?

Ald. LONG: Yes, sir.

Ald. EMERSON: I would like to ask Mr. Skinner a question. Mr. Skinner, is the city in a good position now to win its law suit against the Illinois Central?

Ald. LONG: I do not think that is a fair question. The Illinois Central has no right to the information. You are calling out information here that the Illinois Central could take advantage of. I think it is unfair to ask Mr. Skinner a question of that kind.

Ald. EMERSON: You stated it was very doubtful whether the city can win. Is that true, Mr. Skinner?

Mr. SKINNER: I can only answer that by saying that I have made an extensive examination of abstracts. I have a pile that high (indicating about a foot) of abstracts that I have not yet examined, which were ordered for the express purpose, aldermen, of determining as exactly as possible what the shore rights and the shore titles were between Sixteenth and Fifty-first Streets.

Ald. KUNZ: How many feet would that be?

Mr. SKINNER: About four and one-half miles. We have those, but this other matter has come on.

Ald. EMERSON: If this case comes up—I understand it is set for some time this month?

Ald. KUNZ: No, there is a demurrer against it.

Mr. SKINNER: This information was filed in the name of the Attorney General and State's Attorney, but the work done by the Corporation Counsel's office was demurred to by the Illinois Central. Under the former administration, Mr. Brundage's administration, one of the grounds of demurrer, the chief ground, as I understand it—I had nothing to do with the argument of that demurrer—was that the specific tracts or parcels were not set out in the proper place along the lake front from Twelfth or Sixteenth Street to Fifty-first, and I called up Mr. Park and I understood from him over the telephone that that was one of the grounds upon which the demurrer was sustained. Then it means that those representing the city should go to the bottom of things and get the information; first, to have your abstracts and afterwards to have a survey to determine just the shape, position and quantity of each and every little irregular tract, and we had got to the extent of ordering the abstract, but this matter of settlement came up, and we have not proceeded further.

Ald. EMERSON: This proposed ordinance?

Mr. SKINNER: Yes, sir.

Ald. EMERSON: I understood in this case the suit was on the docket and would probably be up for trial in February. Now am I wrong there or right?

Mr. SKINNER: It is not at issue and it cannot be for trial until it is at issue.

Ald. EMERSON: Was it not stated that this case would probably be for trial in February?

Ald. LONG: The case is not at issue yet.

Ald. EMERSON: Is it not on the docket for trial now?

Ald. KUNZ: No.

Mr. SKINNER: It cannot be for trial until it is at issue.

Ald. EMERSON: Are you working on it, or are you waiting until this ordinance is settled up?

Mr. SKINNER: We worked until this matter came up. There are seven suits now. We have picked out one suit that we think is our strongest suit, and we will make our first fight on that. If we win upon that we will proceed with the others, one after the other.

Ald. LONG: I think you could say that the one you refer to is not the Illinois Central suit.

Mr. SKINNER: Yes, I can say that.

Ald. KUNZ: Let me ask Mr. Skinner a question. In case

the Legislature would empower the City of Chicago to condemn, would you not then be in a better position with the Illinois Central Railroad and the other six people than you are at the present time?

Mr. SKINNER: That is purely a matter of negotiation and policy that anyone can answer as well as a lawyer.

Ald. KUNZ: Is it not a fact if you had the law——

Mr. SKINNER: You mean you would have more legal right and therefore a greater leverage to get a better deal?

Ald. KUNZ: Yes, sir.

Mr. SKINNER: I suppose you would.

Ald. EMERSON: You would have the right to condemn.

Ald. LONG: You could not condemn without paying the price of condemnation.

Ald. KUNZ: That would be nominal. That would be for the courts to decide.

Ald. LONG: They might not hold the consideration as merely nominal.

Ald. RYAN: It seems to me if we can settle this matter in the City of Chicago we should do it rather than delegate any powers to the State Legislature.

Ald. KUNZ: You are not delegating any powers. You are asking the State Legislature to give you powers that you have not now. You are simply asking for more power.

Ald. EMERSON: If the city had the right under an Act of the Legislature to condemn, that would give you a free hand in your present law suit, would it not? You could bring them to terms better.

Mr. SKINNER: Did I understand you to mean the city or the South Park Board?

Ald. EMERSON: Either one.

Ald. KUNZ: Whichever is granted the power.

Mr. SKINNER: The city has certain condemnation powers which are broad and general, but it has no right in the submerged lands. That is in the State or in the South Park Board. The city itself has very broad condemnation powers.

Ald. EMERSON: If they have, Mr. Skinner, why don't they go ahead upon this? Is it not a fact if the city wanted to, they could go and condemn every street across the Illinois Central tracks to the lake?

Mr. SKINNER: Yes, I think they could.

Ald. EMERSON: They could do that?

Mr. SKINNER: I think they have the right under the ordinance of June 4, 1897.

Ald. EMERSON: The city has certain powers. They could bring the Illinois Central to time. It looks as though in this

ordinance we give everything to the Illinois Central and get nothing in return. That has been the history of the Illinois Central throughout the State. They have every alternate section worth millions of dollars to the Illinois Central. Nothing is given to the people. Now, they are coming in and want some more of the lake front. If the people of the State of Illinois had their dues, they would own the Illinois Central for the land donated to them—thousands of acres of valuable land.

The CHAIRMAN: Are you willing to sit with the committee, and thresh out an ordinance that you think protects the city?

Ald. EMERSON: I will tell you what I am willing to do; I am willing to make a motion that the City Council recommend that the Legislature give the city power to condemn. I am not in favor of any ordinance that is going to give the Illinois Central what they are looking for in this present case as it now stands.

The CHAIRMAN: Don't you think this committee can frame some kind of an ordinance that will be satisfactory to every one concerned? Don't you think we can frame an ordinance that will protect all the city's interests, and then it is up to the Illinois Central to accept? It seems to me we do not want to ditch this proposition. As chairman of this committee, I think we are big enough to vote out an ordinance that will be absolutely satisfactory to the citizens; then we can see what the Illinois Central is going to do.

Ald. BRENNAN: You laid great stress upon the Illinois Central giving up their depot, now you are going to do away with that.

The CHAIRMAN: We have not dropped that proposition yet, Mr. Brennan. We ought to be strong enough here and able to draw up an ordinance which will be satisfactory.

Ald. GEIGER: I move that we take up this ordinance section by section, and when we get a section before us let us discuss it and amend it one way or the other. I make that as a motion.

The CHAIRMAN: It has been moved and seconded that we take up this ordinance section by section and vote on each section.

Ald. BRENNAN: What are you going to do with the communications sent in from different people?

The CHAIRMAN: We have read everything that has come in.

Ald. BRENNAN: My question was, was the city ever taken into those conferences before the contract was signed between the Illinois Central and the South Park Commissioners?

Ald. LONG: Yes, it was.

Ald. BRENNAN: According to what Mr. Hoyne said here he

didn't know anything about it. The Corporation Counsel's office did not know anything about it before——

Ald. LONG: Before the contract was signed, as I stated in my remarks, or at least I intended to, there was a conference in the Mayor's office at which Mr. Hoyne, Judge Payne, Mr. Redfield, and the Mayor and I were present, and all these things were discussed tentatively, and in a general way it was agreed that the settlement would be a good thing, if the details were right. It was believed that a proposition of this kind carefully worked out would be very desirable for the city.

Ald. BRENNAN: I understood that contract was signed at that time.

Ald. LONG: No, it was not.

Ald. HEY: I understood Ald. Brennan asked whether the city was invited officially. Was the city invited officially?

Ald. LONG: No, I think not.

Ald. BRENNAN: The city should have something to say.

Ald. LONG: That is what we are here for today.

Ald. KUNZ: It seems to me that we are rather hasty in preparing an ordinance at this time. In the first place, the Committee on Reclamation has started a suit against the Illinois Central Railroad Company to acquire lands, and no sooner had they started in with their suit when the South Park Commissioners come in here with a scheme for beautifying the City of Chicago. Now, it seems to me—I may be wrong—that the Illinois Central Railroad Company fear this suit. So far as we have gone to the present time, your Committee on Reclamation has filed the suit, and a demurrer has been filed by the Illinois Central Railroad Company. We are advised here that they have a stack of abstracts about that high (indicating), to be examined. Now, no one knows what those abstracts contain. No one knows what rights the Illinois Central has at the present time. I do not see that the framing of an ordinance at this time, when we have not all of the facts before us, will be of any advantage. I do not think any harm will be done if the City Council would petition the Governor, in case a special session is called, to add that the Legislature may consider a bill to condemn the streets, giving power to the South Park Commissioners or the City of Chicago. The question of the passing of this ordinance can lie dormant for a while until such time as the Legislature will take this matter in hand. We have before us a great many protests. We have on one hand the Real Estate Board, who seem to be deeply interested in this matter,—why they are I do not know. We have on the other hand, men who reside on the South Side who are protesting against a contract of this nature. Now, there is no hurry about this matter. Our friend Long said that the



passage of this ordinance would not preclude the people from going into court and litigating their rights. Now, why should we put these people to the expense of going into court when it is within the power of this State and within the power of this city to adjudicate this matter? It is admitted that the South Park Commissioners will have to issue bonds. If the bonds are issued the people of Chicago will have to pay them in the way of taxes. It comes out of the pockets of the taxpayer. I think the proper mode of procedure at this time should be that we should pass a petition or an order petitioning the Governor to call a special session of the Legislature to act in this matter, and I move as a substitute to the motion of Ald. Geiger, that the chairman of this committee be instructed to prepare a resolution asking the Governor to call a special session of the Legislature to give power to the South Park Commissioners to condemn the riparian rights.

Ald. BRENNAN: I second the motion.

(Ald. Ryan raised the point of order that the substitute motion presented by Ald. Kunz was out of order, as it was not germane to the question.)

Ald. BLOCK: I believe that this committee is fully intelligent enough to draw up an ordinance which is a good ordinance for the citizens of Chicago, but, gentlemen, before we can do that, before we can draw up a proper ordinance, that will be a benefit to the City of Chicago, let us know the status of the holdings of the Illinois Central on the lake front. Up to date we have only had public hearings, but in the discussion of this ordinance we must consider the underlying principles, and that is the exact status of the holdings of the Illinois Central at the lake front. If that matter can be brought in here as a matter of fact, not as a matter of presumption, so we may weigh the holdings and the power that the Illinois Central has and is in possession of—if we have that, we are then able to go to work and make a satisfactory investigation of it, otherwise we are dealing in speculations, we are dealing in platitudes.

Ald. BRENNAN: Question.

(The chairman decided the point of Ald. Ryan was well taken.)

The CHAIRMAN: Call the roll.

(The chairman requested the secretary to call the roll on the motion of Ald. Geiger to take up the ordinance, section by section.)

(Sec. Harrah called the roll with the following results:)

Ald. LONG: Aye.

Ald. NANCE: No.

Ald. EMERSON: No.

Ald. BUCKLEY: No.

Ald. KUNZ: No.

Ald. BRENNAN: No.

Ald. GEIGER: Aye.

Ald. HEY: No.

Ald. BLOCK: No.

Ald. RYAN: Aye.

Ald. FORSBERG: No.

Sec. HARRAH: Lost by a vote of three to eight.

Ald. BRENNAN: I move that we adjourn for a week.

Ald. KUNZ: Before you adjourn, why not ask the Corporation Counsel, or why not instruct the chairman, to draw up a petition asking the Governor to issue a call for a special session to authorize the South Park Commissioners to condemn riparian rights? I believe in all fairness that this motion ought to be put, that the chairman be instructed to draw up a resolution asking the Governor of the State of Illinois to include in the call for a special session, if such a call is made, that he request the Legislature to consider the passage of an act giving the power to the City of Chicago or the South Park Commissioners to condemn the riparian rights.

(Motion was seconded.)

(A roll call was taken on this motion, with the following result:)

Ald. LONG: No.

Ald. NANCE: Aye.

Ald. EMERSON: Aye.

Ald. KUNZ: Aye.

Ald. BRENNAN: Aye.

Ald. GEIGER: No.

Ald. HEY: Aye.

Ald. BLOCK: Aye.

Ald. RYAN: No.

Ald. FORSBERG: Aye.

Sec. HARRAH: Carried by a vote of eight to three.

Ald. BLOCK: I would like to make a motion before we adjourn, that the Corporation Counsel be instructed to present to this committee a summary of the title underlying the land of the Illinois Central, and which the Illinois Central claims to own, from Twelfth to Fifty-first Streets, so we may have something we can carry on a discussion on as soon as possible.

Ald. LONG: Add to that, that as soon as that is furnished, this matter will be taken up for further consideration.

Ald. BLOCK: Yes.

Ald. RYAN: I second that motion.

(Motion put and carried.)

Thereupon the committee adjourned subject to the call of the chair.

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3. EFFORTS TO PROCURE LEGISLATION—NEW AGREEMENT OF MARCH 30, 1912, BETWEEN THE SOUTH PARK COMMISSIONERS AND THE ILLINOIS CENTRAL RAILROAD COMPANY—CORRESPONDENCE WITH THE MAYOR RELATIVE TO NEW AGREEMENT—PETITION TO THE CIRCUIT COURT OF COOK COUNTY AND FINAL DECREE OF JUDGE HONORE.

After the adverse action of the Committee on Harbors, Wharves and Bridges on the 5th day of February as above, attention was directed to the procurement of proper legislation enabling the South Park Commissioners to acquire by condemnation the lake front\* yet, notwithstanding the pendency of such proposed legislation, negotiations were again shortly resumed between the South Park Commissioners and the Illinois Central Railroad Company, resulting in a new agreement between said parties, dated March 30, 1912. A petition was duly filed in the Circuit Court of Cook County at the May, 1912, term thereof, for the confirmation of said agreement of March 30, 1912, which petition was vigorously opposed in a protest filed by a Citizens' Committee, headed by Mr. Lessing Rosenthal and others, which protest resulted in a supplemental agreement between the South Park Commissioners and the Illinois Central Railroad Company, dated June 26, 1912, and upon the execution of said supplemental agreement, all further opposition and protest by said parties was withdrawn or waived, and the Circuit Court, by Judge Lockwood Honore, on July 10, 1912, entered a final decree, confirming the agreement between the Illinois Central Railroad Company and the South Park Commissioners.†

It should be noted that owing to some disagreement between the Corporation Counsel and the protestants as to the efficacy of the supplemental agreement of June 26, 1912, aforesaid, the Corporation Counsel on July 3, 1912, withdrew the appearances and answers of the city. (See Council Proceedings of July 8, 1912, page 1052. See also Appendix L of this Report.)

Pending the consideration by the court of the agreement of March 30, 1912, the writer having been detained out of the city and desiring that no detail might be overlooked, addressed the following letter to the Mayor:

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\*For full details of the steps taken to procure legislation, see *ante*, page 24, *et seq.* See also Appendix C.

†For agreement of March 30, 1912, and the petition to the Circuit Court of Cook County for confirmation thereof and the supplemental agreement of Jan. 26, 1912, and the final decree of the Circuit Court of July 12, 1912, see Appendix H.

LAKE SHORE RECLAMATION COMMISSION  
OF THE CITY COUNCIL OF THE CITY OF CHICAGO.

THEODORE K. LONG, *Chairman.*

WM. H. SEXTON,  
*Corporation Counsel.*

G. B. YOUNG, M. D.,  
*Commissioner of Health.*

MAY 28, 1912.

*Hon. Carter H. Harrison, Mayor.*

DEAR MR. MAYOR: Referring again to the pending agreement between the Illinois Central Railroad Company and the South Park Commissioners, I wish to invite your attention to the language of Article V in said agreement in reference to the lands to be acquired by the company, as follows:

"The said company shall have and hold the fee simple title to any and all such lands and interests so vested in it, with the full right to fill in, improve, protect and use the same for railroad and other lawful purposes, and to sell and convey the same up to the lines so established, free from any adverse claim in any way arising out of any question as to where the shore line was at any time in the past, or as to the title to any existing accretions."

In my opinion, the foregoing is altogether too broad and permits the railroad company to dispose of these lands so that they may be used for any lawful manufacturing or commercial purpose, thus making it possible and probable that the lake shore may be obstructed with unsightly buildings that will largely destroy the very object for which we are contending.

Then again, paragraph 4 of Article VII, with reference to the lands of the Illinois Central Railroad between Thirty-first and Fifty-first Streets, is altogether different from the language we inserted in the original contract. Such original provision (Sec. 9, Original Contract) is as follows:

"Provided, however, that subject to any leases in force December 1, 1911, if any there be, all submerged, penetrating and made lands and other lands, lying west of the proposed boundary line and east of the west line of the present 200-foot right-of-way of the Illinois Central Railroad Company between Thirty-first and Fifty-first Streets, shall not be used for any purpose other than tracks, switches, turnouts and passenger stations."

There is no question as to the meaning of the language of the original contract; but the new language substituted for the foregoing in the pending contract is as follows:

"(4). That except with the consent of the City Council of the City of Chicago, no building of any dimensions whatever, or for any purpose whatever, shall hereafter be constructed or permitted to be constructed upon the right of way, or lands of the company acquired or to be acquired hereunder, between the south line of Thirty-first Street projected east and the north line of Fifty-first Street, except switch shanties, switch towers and signal towers when necessary and where necessary for the actual operation of the railroad of the company, which shanties and towers shall not be higher than reasonably necessary for the purposes thereof, and also except waiting rooms, shelters at suburban depots and other buildings and structures for passenger purposes and accommodation."

I think it is quite obvious that the language of the last quotation above is obscure, that it is not certain whether its purpose is to include within the restriction intended or to exclude from such restriction the company's present right of way.

I wish to say, however, that in a conversation with Mr. Skinner a few days ago he stated to me that in his opinion the city is in a position now where it can fairly contend for such a reasonable modification of the pending agreement as may be necessary. In the opinion of the court, to fully

safeguard the interests of the public and the city; and it occurs to me, that the city should not lose its opportunity to insist upon the language of the original contract, or its equivalent, in reference to the lands and right of way between Thirty-first and Fifty-first Streets.

As I stated in Council a week ago last night, there are also several minor objections relating, among other things, to depression of tracks, the reserved right of the city to cross the Illinois Central without condemnation proceedings, the reservation to the city of all its existing police powers, etc., reservation for harbor purposes, the proper maintenance of bathing beaches and recreation piers, and the extension of South Park Boulevard. All these should be arranged for, and I understand, from my recent talk with you, that they have been substantially covered by correspondence between yourself and the South Park Board.

In so far, however, as they have not been covered, it seems to me they should be brought to the attention of the court so that they may be included, if possible, in the agreement as finally approved.

Very truly yours,

THEODORE K. LONG.

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CARTER H. HARRISON,  
*Mayor.*

CITY OF CHICAGO  
OFFICE OF THE MAYOR

CHICAGO, June 1, 1912.

*Mr. Theodore K. Long, 4823 Kimbark Avenue, Chicago.*

DEAR SIR: I shall be glad to give your letter of May 28, referring to the pending agreement between the Illinois Central and the South Park Board, consideration.

I have taken the subject of it up with Corporation Counsel Sexton.

Yours very truly,

CARTER H. HARRISON,  
*Mayor.*

While it is apparent from the foregoing proceedings before the Committee on Harbors, Wharves and Bridges, and before the courts, that there was considerable diversity of opinion relative to the adjustment of the details of the Illinois Central case, it is also true that there never was any real difference between the several persons who took part in the proceedings, as to the results sought to be attained. The writer deems it fortunate for the public that the different views were brought to the surface and given a full opportunity for ventilation and adjustment before the entry by the court of its final decree,\* thus forever silencing all opposition and effecting a settlement, which if not ideal from the standpoint of the public, is at least expedient and desirable, and, let us hope, permanent.

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\*For final decree, see Appendix H.

## IV.

## COMMENTS ON LAKE SHORE SETTLEMENTS.

In conclusion, we beg to report that since the creation of the Lake Shore Reclamation Commission, January 25, 1910, title to the greater part of the lake shore from Jackson Park to Grant Park has been settled and confirmed in the South Park Commissioners in trust for the benefit of the people.\*

And it is only fair to add that, in the opinion of the writer, no one person or authority is entitled wholly to the credit of having wrought so beneficent and important a result. Indeed, it would have been impossible in the brief space of time elapsing since the initiation of the work of this commission, to have accomplished any material results, had it not been for the hearty co-operation and assistance of all the several official bodies interested therein, as well as the public generally, and most of all, the Chicago press. Suffice it to say that the good work has been accomplished in the usual Chicago way, which means that all who contributed to the successful settlement of this difficult problem are entitled to share in the glory thereof.

And in this connection proper credit must be given to the South Park Commissioners, without whose enthusiastic efforts nothing could have been accomplished. Great credit is also due to the untiring zeal and efficient aid of Mr. E. B. Butler, Mr. Charles Wacker, Mr. Lessing Rosenthal and others, who gave liberally of their time and energy in bringing about a proper and final solution of the lake shore problem.

The splendid results accomplished in the adjustment of the several matters hereinbefore discussed, illustrate, in a wholesome manner, the true spirit of "get together," and it is this same spirit that we must, in a large measure, realize upon in order to work out the great problems of our municipality still confronting us, which, when solved, will enable us to realize the dream of the city's new birth—a greater, more artistic and better Chicago, a Chicago not only commercial but esthetic and altruistic as well.

Following the first or material birth of Chicago, came her wonderful material development. From the pine forests of the North, the mineral lodes of the West, the rich pastures and fertile fields of the Mississippi, have been assembled here the great

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\*Note: The South Park Commissioners on October 18, 1912, filed a petition in the Circuit Court of Cook County for the condemnation of the riparian rights of what is known as the Walker tract, this being the only tract between Fifty-first Street and Grant Park not claimed by the Illinois Central Railway Company, and the acquisition of this tract will complete the title of the Park Commissioners to the entire lake shore between the points designated.

prizes for which men toil and struggle, and it is from these and out of these that Chicago has won the splendid ultimate triumph of material wealth; and, what is even more, it is from these and out of these that she has evolved a race of commercial Titans whose splendid triumphs in trade, commerce, finance and transportation, have been and are now the admiration of the commercial world.

In the development and evolution of the ideal man, there logically comes a time somewhere along the course of life where the mere accumulation of wealth ceases to satisfy his normal hopes and aspirations. The great Architect of the universe has implanted in every human heart an ethical aspiration, which, sooner or later, generates in its possessor the hope and wish for the esthetic, the spiritual, the beautiful, the altruistic, and the extent to which the individual is able to yield to the refinement of his inner self, determines the real measure of his success and happiness. The same law that maintains with regard to the individual exists with equal force with reference to the city.

Chicago has reached the stage in her splendid material growth where the esthetic spirit is beginning to take deep root, and a thousand voices call for playgrounds, recreation piers, bathing beaches, beautiful streets, works of art and the higher comforts of civilization. Who can say that it is not the call of the spirit—the call for Chicago's new birth, and this new birth does not mean less of material prosperity, but simply an opportunity to develop the artistic and the beautiful along with the material. Chicago must always be the great commercial exchange of the West, and whatever we do must have regard first to this fact. When Chicago ceases to be commercial and material, productive and useful, her career will have been run, and her crumbling walls and moss-covered ruins will attest the locus of a declining race.

We may go a step further and say that the same law that develops the esthetic and spiritual in the individual and in the city, maintains with equal force in an aggregation of individuals. The Commercial Club of Chicago includes among its membership many of the class designated as commerce builders, without whose struggles and victories Chicago could not have attained the commercial prominence she holds today.

These busy men, with a lavish expenditure of time and money, and constructive genius unprecedented, are now turning their attention to the altruistic side of Chicago's development, and it is largely the growth and development of this altruistic spirit that distinguishes Chicago from other municipalities, inspiring within her denizens a greater faith and keeping her ever in the van accomplishing and achieving.

## V.

THE CALUMET DISTRICT, INCLUDING THE ENTIRE SHORE OF LAKE CALUMET, IN SOUTH CHICAGO.

In pursuance of a resolution of the City Council, passed June 20, 1910 (C. P., p. 651), directing the Lake Shore Reclamation Commission to investigate the encroachments made upon Lake Calumet, a survey of said lake was completed by said commission and a complete plat thereof made as shown in detail by copy of said plat published herewith as Appendix M.

With a view of collecting for convenience of future use all the data available on this subject, the writer requested the Corporation Counsel for a copy of his opinion on the riparian rights of Lake Calumet for publication in this report. Said opinion is as follows:

EDWARD J. BRUNDAGE,  
*Corporation Counsel.*

CITY OF CHICAGO  
LAW DEPARTMENT

OFFICE OF THE CORPORATION COUNSEL

June 20, 1910.

*Hon. Theodore K. Long, Alderman Sixth Ward.*

DEAR SIR: Enclosed herewith I hand you council order authorizing the Lake Shore Reclamation Commission to obtain a survey and make an investigation of the encroachments upon Calumet Lake, and for an appropriation in the sum of \$1,200.00 for this purpose. This, no doubt, will answer the purpose of bringing this matter properly before the City Council.

I return herewith an opinion from this office, addressed to Hon. Charles E. Reading, Alderman of the Thirty-third Ward, and a communication from the General Land Office to said alderman.

Very truly yours,

GEORGE E. DIERSSEN,  
*Assistant Corporation Counsel.*

EDWARD J. BRUNDAGE,  
*Corporation Counsel.*

CITY OF CHICAGO  
LAW DEPARTMENT

OFFICE OF THE CORPORATION COUNSEL

MAY 24, 1910.

IN RE NAVIGABILITY OF RIPARIAN RIGHTS ON, AND POLLUTION OF WATERS OF, LAKE CALUMET

*Hon. Charles E. Reading, Alderman Thirty-third Ward.*

DEAR SIR: Your several inquiries regarding Lake Calumet have been duly considered, together with letter submitted from the U. S. General Land Office under date of May 7, 1910, and in reference thereto I beg to advise you as follows:



**FIRST: AS TO NAVIGABILITY OF LAKE CALUMET.**

Whether a lake is navigable is generally a question of fact.

*People v. Board of Supervisors*, 122 Ill. App. 40.

And depends upon whether used, or susceptible of being used, in its ordinary condition, as a highway for commerce over which trade and travel are or may be conducted in the customary modes of trade and travel on water.

*Schulte v. Warren*, 218 Ill. 108.

From inquiries made on this point I should say that Lake Calumet is a navigable body of water, although the question has never been determined by the courts.

**SECOND: AS TO THE RIGHT OF SHORE OWNERS TO FILL IN LAKE CALUMET.**

Lake Calumet was surveyed by the United States Government as a meandered lake, that is, the lines of the shore lands run to the water's edge.

The waters on meandered lakes, and the land covered by them, are held by the State in trust for all the people, and a grant of the shore land therefore conveys to the water's edge with riparian rights, that is, the right of natural accretions and natural relictions. Reliction is the gradual recession of the waters of a meandered lake and gives the shore owners the right to the new land by following the recession of waters to their edge.

*Fuller v. Shedd*, 161 Ill. 462.

But no shore owner can take away from the State its title to the former bed of the lake, unless he can establish by proof that the dry land was formed by the receding of the water from his own shore line.

*Hammond v. Shepard*, 186 Ill. 235.

It appears that the drainage of the whole Calumet district and the dredging and opening to navigation of the Calumet River have tended to lower the level of Lake Calumet so that by the reliction of the waters the submerged lands adjoining the shore have for a considerable distance become dry land. Land made in this way is the property of the adjoining shore owner. But lands made or recovered in any other way than by natural accretion or natural reliction are made illegally and are a trespass upon the rights of the State and may be recovered by a proceeding in the name of the State by the Attorney General or State's Attorney.

**THIRD: AS TO POLLUTION OF THE WATERS OF LAKE CALUMET.**

Sections 1002 to 1006 of the 1905 Municipal Code of Chicago prohibit the pollution of the waters of the harbor of Chicago, but the definition given in Section 969 of the harbor of Chicago does not include Lake Calumet, and the sections referred to are, therefore, not applicable. The pollution of the waters of Lake Calumet, however, would constitute a nuisance under sections 1201 to 1209 of the Revised Municipal Code and the enforcement of these sections is the duty of the Commissioner of Health. An action for such pollution could also be brought under the State law on nuisances, paragraph 221 of the Criminal Code, and would be in charge of the State's Attorney.

**CONCLUSION**

If any considerable filling has been done in Lake Calumet, it would be advisable to have a survey of the shore line made and an investigation started to show by whose acts and under what circumstances additional lands have been made.

Yours truly,

ADOLPH TRAUB,  
Assistant Corporation Counsel.

APPROVED:

EDWARD J. BRUNDAGE,  
Corporation Counsel.

## DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE.

WASHINGTON, May 7, 1910.

Address the Commissioner of the General Land Office.

RELATIVE TO ENCROACHMENTS ON LAND IN CALUMET LAKE, ILLINOIS, BY PARTIES.

*Mr. Chas. E. Reading, Chicago, Illinois.*

SIR: I am in receipt of your letter dated March 23, 1910, stating that you have been informed that a survey made between May 20 and August 2, 1879, by J. B. Bausman, U. S. "Government Engineer," shows that said lake is navigable, and you ask this office to inform you, if possible, who would be in authority to prevent encroachments on said lake.

In reply, you are advised that upon examining the records in this office, a report is found on file by J. B. Bausman, Special Examiner, on the survey of the area embraced within the original meander line of said lake in T. 37 N., R. 14 E., 3rd P. M., Illinois, by Alexander Wolcott, under his contract bearing date of September 13, 1877 (which survey was rejected by this office March 23, 1880), in which report it is shown that the conclusion was reached that said lake "is a permanently navigable body of water."

The report of Mr. Bausman formed the basis of the rejection of said survey by this office, upon the ground that the lands were not public lands of the United States, and this being so, I am unable to give you any advice as to who would be in authority to prevent encroachments upon said lake.

Very respectfully,

FRED DENNETT,  
*Commissioner.*

July 28, 1910.

*Hon. Edward J. Brundage, Corporation Counsel, City Hall, 200 Randolph Street, Chicago, Ill.*

MY DEAR BRUNDAGE: Referring to your opinion dated May 24, 1910, addressed to Hon. Charles E. Reading, "In Re Navigability of Riparian Rights on, and Pollution of Waters of, Lake Calumet," I wish to advise you that the Council at its last meeting, July 18, 1910, appropriated \$500.00 additional for our committee to be used for the purposes of investigation and for instituting proper proceedings in connection with "made lands" in the Lake Calumet region. This appropriation was allowed by the Finance Committee in pursuance of request of Alderman Reading and the writer for \$1,200.00 for this work; and while the appropriation is too small, I take it it will be sufficient to cover the preliminary investigations and to start the litigation. I would suggest, therefore, that steps be taken at as early a date as practicable to file suits covering such parts of the Calumet territory as in the opinion of your office may be recoverable.

Very truly yours,

THEODORE K. LONG.

The following ordinance reported out of the Committee on Harbors, Wharves and Bridges, October 22, 1912, was unanimously passed by the City Council October 28, 1912:

*Be it ordained by the City Council of the City of Chicago:*

SECTION 1. That Section 1907 of the Chicago Code of 1911, be and the same is hereby amended to read as follows:

1907. *Definitions.* The harbor shall consist of the Chicago River and its branches to their respective sources, the Ogden canal, all slips adjacent to

and connecting with the Chicago River, the Calumet River and all slips connecting therewith, the waters of Lake Calumet, all slips and basins connecting therewith, and all piers, breakwaters and permanent structures therein, the Drainage Canal, all piers and basins and the waters of Lake Michigan, including all breakwaters, piers and permanent structures therein, for a distance of three miles from the shore between the north and south lines of the city extended. The harbor as herein defined shall be subject to the control of the Harbor Master, under the supervision and according to the directions of the Commissioner of Public Works, and the use thereof shall be governed by the ordinances of the city. The words "vessels," "crafts" and "floats" shall be deemed to include every kind of sailing, steam or other vessel lying or floating in or navigating the harbor.

SECTION 2. This ordinance shall take effect and be in force from and after its passage, approval and publication.

The foregoing ordinance amends the Chicago Code by including within the meaning of the Chicago Harbor, the Calumet River and the waters of Lake Calumet, thus extending the powers of the Chicago harbor police over the waters of said lake and river and vesting the city with power to checkmate the unwarranted and unlawful trespasses that have been carried on these many years by the rapacious land grabbers along the shores of Lake Calumet.

In this connection, it should be noted that appropriate action ought to be taken by the proper authorities for the reclamation of the shores of Lake Calumet and the Calumet River. As appears from the writer's letter above, dated July 28, 1910, it was then suggested to Corporation Counsel Brundage that steps be taken to file suits for the reclamation of the Calumet territory. No suits have as yet been filed in this behalf. The matter was again recently brought to the attention of the Corporation Counsel, as shown by the following correspondence:

CHICAGO, November 7, 1912.

*Hon. William H. Sexton, Corporaton Counsel, Chicago, Ill.*

MY DEAR MR. SEXTON: On July 28, 1910, I addressed a letter to the then Corporation Counsel, Edward J. Brundage, a copy of which is enclosed herewith. And I beg at this time to renew my suggestion therein made, to the effect that steps be taken to file suits for the reclamation of the shores of Lake Calumet and the Calumet River.

I enclose copy of opinion of the Corporation Counsel of May 24, 1910, copy of blue print of survey of Lake Calumet made by our Commission, and copy of letter of May 7, 1910, from the Commissioner of the General Land Office to Mr. Charles E. Reading, which explain themselves.

Will you kindly give this matter your early attention, and advise me as to your conclusion with reference thereto?

Very truly yours,

THEODORE K. LONG.

CITY OF CHICAGO  
LAW DEPARTMENT

November 13, 1912.

## IN RE PROPOSED RECLAMATION SUITS ON LAKE CALUMET

*Hon. Theo. K. Long, Chairman, Lake Shore Reclamation Commission, Chicago.*

DEAR SIR: Replying to your letter of November 7, 1912, addressed to Hon. William H. Sexton, Corporation Counsel, and suggesting that steps be taken to file suits for the reclamation of the shores of Lake Calumet and the Calumet River, I beg to state as follows:

1st: The Calumet River and Lake Calumet have been created a harbor district, known as Harbor District No. 4, by ordinance passed by the City Council November 20, 1911, under authority of the Harbor Act of June 10, 1911.

On October 22, 1912, the City Council of Chicago passed an amendment to section 1097 of the Chicago Code of 1911, including within the definition of the harbor of Chicago and its harbor area, the waters of Lake Calumet, all slips and basins connecting therewith, and all piers, breakwaters and permanent structures therein. The Calumet River and all slips connecting therewith have heretofore constituted part of the harbor under the provisions of said section 1097.

2d: The City of Chicago has caused a survey of the shores of Lake Calumet to be made, which was completed November 29, 1910. This survey was confined to the location of a shore line and a meander line. No specific tracts were located, nor were any areas computed, the title to which is claimed to be in the State of Illinois, and many of the facts necessary to the location of former submerged tracts, which have been illegally reclaimed and are now in the possession of shore owners, are not in the possession of this department. It is, therefore, apparent that much investigation and considerable surveying would have to be done before the proper data, upon which to base suits for the recovery of these disputed lands, could be obtained.

3d: On September 30, 1912, the City Council of Chicago passed a resolution instructing its Committee on Judiciary, State Legislation, Elections and Rules to act in conjunction with the Corporation Counsel and to proceed at once with the drafting of necessary bills to cure defects in the Harbor Act of June 10, 1911, and to procure additional harbor legislation. The drafting of such bills has been assigned to the writer, and as a part of the additional legislation to be procured, I have been instructed to include appropriate provisions which would be applicable to the Calumet River and Lake Calumet for the settlement of all questions of riparian rights and the adjustment of title to "made lands" and the location of boundary lines between the shore owners and the State of Illinois, or the City of Chicago as its corporate municipal representative. It is the intention to have the aforesaid bills introduced in the State Legislature in January, 1913, immediately after it convenes and organizes.

As is well known, there is an insistent demand for harbor development in Lake Calumet, it being claimed that this is the logical site for the great industrial harbor of Chicago. If the aforesaid harbor legislation can be procured, it is my belief that it will provide a more immediate and definite settlement of the "made land" questions involved than the bringing of information suits on the relation of the Attorney General and the State's Attorney, for the reason that litigation of this character is apt to be long drawn out and subject to delays, and if in the end successful the title would be decreed to be in the State of Illinois and legislation by the State Legislature would still be necessary before any portion of these "made lands" could be devoted to harbor purposes.

For the reasons above set forth, I am therefore of the opinion that efforts for the solution of the questions involved should be concentrated along

the lines of procuring the legislation, above referred to, and that the bringing of suits in behalf of the people by the Attorney General and the State's Attorney should be postponed at least until the outcome of such efforts is known.

Respectfully yours,

JAMES G. SKINNER,  
*Assistant Corporation Counsel.*

APPROVED:

WM. H. SEXTON,  
*Corporation Counsel.*

Pursuant to the recommendation of the Corporation Counsel above, the writer has requested that a proper bill be prepared for presentation to the Legislature at its next session, and whether this important matter is settled by legislation or litigation, it is evident that the shore lands of Lake Calumet must be eventually reclaimed by the city for harbor purposes. Their reclamation, while not necessarily a part of the "Chicago Plan," is even more essential in many respects than the reclamation of some parts of the shore of Lake Michigan; because within the borders of Lake Calumet and its river outlet there must be eventually developed Chicago's greatest commercial and industrial harbor,—a harbor so equipped and proportioned that it will satisfy the demands of a commerce as varied as humanity and as extensive as our continent.

Respectfully submitted,

LAKE SHORE RECLAMATION COMMISSION,

By THEODORE K. LONG,  
*Chairman.*



VI.

## APPENDICES.





## APPENDIX A.

1. LETTER OF THEODORE K. LONG OF AUGUST 17, 1909, TO THE CORPORATION COUNSEL.
2. OPINION OF THE CORPORATION COUNSEL ON LAKE SHORE OWNERSHIP.

CHICAGO, August 17, 1909.

*Hon. Edward J. Brundage, Corporation Counsel, City Hall, City:*

DEAR MR. BRUNDAGE: Referring to my conversation with you several days ago, I beg to request on behalf of the Council Committee on Bathing Beaches and Recreation Piers that you furnish to us an opinion covering the following several points relating to matters now pending before said committee:

1. It is proposed to establish a municipal bathing beach and recreation pier at Montrose Avenue; the bathing beach to occupy the lake shore northerly from Montrose Avenue along land now owned by the city, and the pier to extend out into lake from the stub end of Montrose Avenue, said pier to be approximately of the same width as said avenue.

2. It is proposed to establish a municipal bathing beach and recreation pier at or near Twenty-second Street, south; the bathing beach to occupy the shore southward from Twenty-second Street to Twenty-fifth Street, if possession of the beach can be obtained; and the pier to extend out into lake from the stub end of Twenty-second Street. It is proposed to arrange at this point for a dump for the waste material resulting from excavation and like causes; this material to be anchored by proper and suitable retaining walls or piles, so as to extend Twenty-second Street into the lake, thus forming a quasi peninsula, or pier, which, in time, will evolve into a resort capable of affording accommodations for boating, bathing and other pleasures for vast numbers of Chicago citizens.

3. It is proposed to arrange a similar dumping place off Fifty-first Street, south, so as to create at that point a neck of land extending out into the lake to connect with Morgan Reef, the latter being a large "shallows" over which the water varies in depth from four to ten feet, and covering approximately a hundred acres. Our plans contemplate the use of said Morgan Reef as a dumping ground until it is raised above the present surface of Lake Michigan and is converted into a beautiful island park or recreation ground.

In connection with the foregoing our committee desires to be advised

*First:* As to what rights, if any, the City of Chicago has to install, make and establish the aforesaid proposed bathing beaches, improvements and dumping grounds, and from what government, authority, organization, park commission or municipality (if any) permission must be first had and obtained to enable the city to carry out the improvements contemplated.

*Second:* As to whether under the several Acts of the General Assembly of the State of Illinois enlarging the powers of the several park commissions with reference to the lake front submerged lands (Act approved May 14, 1903, in force July 1, 1903, and Act approved May 2, 1907, in force July 1, 1907, and other Acts, if any) the title to the submerged lands at the points designated is vested in the several park commissions; and

*Third:* As to whether the lands so made by filling in, as proposed in the improvements contemplated, by the extension of street ends into and over the lake, will, when completed, belong to the several park commissions or to the City of Chicago; and

*Fourth:* Whether lands made by natural accretion adjacent to filled-in lands, and being part thereof, will belong to the city or to the park commissions or to the shore owner in front of whose lands such accretions are formed. This last or third alternative should be divided into (a) accretions formed in front of a shore owner, but connected with his present shore, and (b) accretions formed in

front of a shore owner but separated from his present shore line by a stretch of water.

Generally speaking, the committee desires such advice, information and suggestion from your department with reference to the foregoing as will enable it to carry out intelligently the proposed plans for bathing beaches and amusement piers and at the same time fully protect and save harmless the city in reference to its legal rights in connection therewith.

In addition to the foregoing, the committee desires to be advised specially with reference to certain lands formed and being formed by accretion at Fifty-first Street, south, immediately north of Fifty-first Street and east of the Chicago Beach Hotel. These lands are all claimed by private parties, but if the city owns the stub end of Fifty-first Street and the small park adjacent thereto, and if the accretions belong to the shore owner, then it would seem that the city would be entitled to all the accretions at Fifty-first Street, south of an imaginary line extended into the lake at right angles with the general direction of the original shore line at that point; said imaginary line to start from the point where the north line of Fifty-first Street bisects said original shore line. This would give the city a considerable portion of the accretions now formed and being formed at Fifty-first Street, and would be of great benefit to our committee in arranging a connection at this point with Morgan Reef and the filling in thereof.

The writer offers his apologies for the length of this communication, and presents as his only excuse therefore the great importance to the public of the questions herein presented.

Yours very truly,

(Signed) THEODORE K. LONG,

*For the Committee on Bathing Beaches and Amusement Piers.*

September 23, 1909.

*To the Honorable, The Committee on Bathing Beaches and Recreation Piers of the City Council:*

GENTLEMEN,—Under date of August 17, 1909, Hon. Theodore K. Long requested the Corporation Counsel to furnish a legal opinion covering several matters then pending before your committee, which request was subsequently assigned to me for consideration, and after some weeks of investigation and study of the various questions presented by your committee, I have the honor to advise you in the premises as follows:

1. As to jurisdiction over submerged lands.

By virtue of Section 71, Par. 10, of the Cities and Villages Act, the City of Chicago has jurisdiction upon all waters within or bordering upon the city to the extent of three miles beyond the city limits; that this Act did not grant to the city ownership of the submerged lands, is clearly shown by the case of *Bliss vs. Ward*, 198 Ill. 104, in which the court said:

"The Act of 1863, reducing the charter of the City of Chicago to one act and extending the corporate limits of the city so as to include the waters and body of Lake Michigan for a distance of one mile east of the shore, did not transfer title to the submerged lands within such extended limits to the City of Chicago."

Of course, the court would doubtless, if the question were presented, reach the same conclusion in considering the Cities, Towns and Villages Act (the Act of 1872), which superseded the City Charter of 1863, wherever the same was repugnant thereto or inconsistent therewith.

In many of the Illinois decisions, the title of the State in all of the submerged lands under Lake Michigan lying within the boundary limitations of Illinois, has been announced and affirmed.

"The law seems to be well settled in the different States that the title to and dominion over lands covered by tide-waters within the boundaries of the several States belongs to each State wherein they are located. The State holds the fee in trust for the public. The doctrine established in regard to lands covered by tide-waters, has also been held applicable to lands bounded by fresh water on our large lakes. As early as 1860 the question arose in this State in regard to the proper construction to be placed upon a deed conveying land with Lake Mich-

igan as a boundary line, and in disposing of this question, this court, in *Seaman v. Smith*, 24 Ill. 521, held that a grant giving the ocean or a bay as the boundary line by the common law carries it down to the ordinary high-water mark; that the point at which the tide usually ebbs and flows is the boundary of a grant to the shore, and that the rule which governed in regard to lands on tide-water applied to lands on our great lakes. . . . The State holds the title in trust in its sovereign capacity for the entire people. . . . The governmental power of the State over these lands cannot be relinquished or given away. The trust imposed upon the State must be kept and faithfully observed." (*People v. Kirk*, 162 Ill. 138.)

2. As to the right of the State to transfer title in submerged lands.

Only in the subservience of public interests, as distinguished from private interests, can the alienation of submerged land in Lake Michigan be justified.

During the past twenty years numerous instances have arisen in which the State of Illinois, by its Legislature, has vested portions of the submerged land in various municipalities, and since a consideration of these transfers is necessary to a proper understanding of the questions presented, it is pertinent to mention briefly some of the most important legislative enactments on this subject.

A. In 1889 the General Assembly authorized the Lincoln Park Board to extend a driveway over and upon the waters of Lake Michigan so long as the same did not interfere with navigation, commerce or the right of fishery. This Act also permitted the board to sell and convey the submerged land lying between the shore and the westerly boundary of the proposed driveway.

Our Supreme Court, in the case of *People v. Kirk* (supra), sustained the validity of the Act, and asserted that in transferring the submerged land within the limitations named in the Act, the Legislature had not transcended the trust imposed upon it by law.

B. Under the provisions of an Act passed by the Legislature, in force July 1, 1895, the Lincoln Park Commissioners were granted title to the submerged land from the Chicago River to the northern boundary of the Town of Lake View, upon the adoption of a plan for the enlargement of Lincoln Park and the location of a driveway over and upon the body of Lake Michigan. The Act also provided for a method of acquiring the riparian rights of the various shore owners. Subsequent to the passage of this Act, the Lincoln Park Commissioners have, from time to time, adopted plans for the construction of the boulevard or driveway from point to point along the north shore and have had the boundary line fixed by them, affirmed by a decree of the Circuit Court in conformity with the requirements of the Act.

Attached hereto and marked "Exhibit A" is a letter from Mr. Charles A. Churan, attorney for the Lincoln Park Commissioners, setting out in detail the progress of the Lincoln Park Commissioners in this matter to date; also a plat (Marked Exhibit "B") which shows the proposed extensions and work under construction in the Lincoln Park district.

Regardless of the fact that the Lincoln Park Commissioners had proceeded under the authority of the last mentioned Act, and had adopted a plan for the occupation and improvement of the submerged lands lying between the north line of Grace Street extended to the northern limits of the Town of Lake View, Charles U. Gordon attempted to construct a pier upon the submerged lands along the shore of Lake Michigan adjacent to Lot 13 of Simmons & Gordon's Addition to Chicago. The Supreme Court, in the case of *Gordon vs. Winston*, 181 Ill. 338, in affirming the judgment of the Circuit Court enjoining the construction of the pier, held that the Park Board had a right to appropriate the submerged lands extending out to the line of navigation, and had the right to enjoin any acts on the part of Gordon which tended to encroach upon the public domain and gradually appropriate such property for his own use.

C. In the year 1899 the State granted to the City of Chicago the land under the waters of the lake opposite Thirty-ninth Street, for the purpose of building and forever maintaining thereon a pumping station, together with the necessary intakes for water with protecting piers therefor. (See *Hurd's Revised Statutes*, 1908, page 457.)

D. By virtue of an Act in force July 1, 1903, the South Park Commissioners were authorized to extend parks, boulevards or driveways bordering upon any

public waters in this State, over and upon the bed of such public waters, provided that such extension should not interfere with the practical navigation of such public waters for the purpose of commerce, without due authority from the proper official of the United States Government having control thereof. The South Park Commissioners were also given the right to connect parks within their jurisdiction by constructing a boulevard, driveway or parkway over and upon the bed of such public waters and over and upon any lands penetrating such waters.

Provision was made in this Act for the acquisition of riparian rights, compensation to be made out of the *general revenue*.

E. Subsequent to the passage of the last mentioned Act, the commissioners discovered that its provisions were incomplete, and that a different method of payment for the riparian rights should be made; whereupon, during the summer of 1907, a new bill was presented to the Legislature, which became a law on July 1, 1907.

As in the Act of 1903, the statute of 1907 transfers title to the submerged land from Twelfth Street to the north line of Jackson Park, when the Park Commissioners shall have acquired the riparian rights of the owners of any lands along the shore adjoining such submerged lands and shall have agreed upon a dividing line, which dividing line is established or affirmed by the decree of the Circuit Court.

It is to be noted that the acts granting the submerged lands along the north shore and the acts granting the submerged lands along the south shore to the various park commissioners differ materially in one respect, namely, the Lincoln Park Commissioners acquire title upon the adoption of a plan for the extension: whereas, the South Park Commissioners acquire no title until the riparian rights have been secured.

My conclusion on this subject is concurred in by Mr. R. P. Hollett, who was attorney for the South Park Commissioners at the time the Act of 1907 was introduced in the Legislature, as well as by Mr. John G. Drennan, who assisted in the drafting of the bill.

In passing, it might be mentioned that during the last session of the General Assembly a bill was introduced and passed the Senate, which granted the Chicago Exposition and Recreation Pier Company the right, power and authority to construct, maintain and operate a recreation pier upon the submerged lands in the waters of Lake Michigan extending easterly perpendicularly to the general trend of the shore of the lake to Thirty-first Street with proper and necessary approaches. The persons interested in this bill, evidently also assumed that the South Park Commissioners had, at the time of the introduction of the bill, acquired no interest in the submerged land at this point.

My information is that the South Park Commissioners dropped the matter of extending a boulevard over the bed of the lake connecting Grant and Jackson Parks at the time when His Honor, Mayor Busse, appointed the Special Harbor Commission, since the park authorities had no desire to proceed with any scheme which would conflict with the plans of the city in the matter of the improvement of the lake front.

F. In 1903, the Legislature also granted and conveyed to the South Park Commissioners the submerged and artificially made land lying within the "south boundary line of Jackson Park and the south line of Seventy-ninth Street, as extended one thousand feet into Lake Michigan, and the line easterly of and parallel with the shore line of said lake" (and the shore line of said lake), and also within the "north line of Ninety-fifth Street extended to its intersection with the boundary line of Indiana and Illinois, as extended, and the shore line of Lake Michigan."

### 3. RIGHTS OF RIPARIAN OWNERS.

The Illinois courts have taken a severe stand in protecting the position of the State in the submerged land under the waters of Lake Michigan. The decisions bearing upon the rights of the shore owners are so clear and unequivocal that there can be no dispute as to the following propositions:

(a) The riparian owner has the right only to natural accretions and to access to the water in front of his property.

(b) The riparian owner may erect structures on his own land to protect it from erosion if they do not interfere with navigation, but he has no right to build piers or other structures upon the submerged land to accomplish that purpose unless authorized by the State. (*Revell vs. People of the State of Illinois*, 177 Ill. 468.)

Revell, in this case, attempted to build a pier parallel with the shore line, but beyond the water's edge. This the court held was an unlawful and unwarranted act.

(c) The riparian owner has no right to construct a pier out into the lake unless he owns the submerged land, or has permission from one having title thereto. (*Cobb vs. Commrs. Lincoln Park*, 202 Ill. 427.)

(d) Neither a riparian owner nor any other person can by filling in without permission obtain title to made land where the title to soil upon which the filling was done was in the State. (*Farnham on Water Rights*, Vol. 1, p. 339; *Diedrich v. Northwestern Union R. Co.*, 42 Wis. 248.)

#### 4. AS TO PROPOSED MONTROSE AVENUE BATHING BEACH.

On the thirteenth day of February, 1906, the commissioners of Lincoln Park, by resolution, adopted a plan showing lines running along the shore of Lake Michigan from the north line of Sheridan Road (Byron Street), extended, to the north line of Montrose Avenue, extended, said line having been agreed upon as dividing or boundary line between the streets named above and the land acquired by the Commissioners of Lincoln Park under the aforesaid Act of 1895.

The commissioners of Lincoln Park, by resolution, passed on the thirteenth day of January, 1909, duly resolved that it was the intention of the commissioners of Lincoln Park in establishing said line to dedicate to the public as public streets Montrose Avenue, Marquette Terrace, Kenesaw Terrace, Buena Avenue, Gordon Terrace, Bittersweet Place and Irving Park Avenue, as extended eastward to said permanent boundary line.

The City of Chicago by ordinance duly passed on March 8, 1909, Council Proceedings, page 3172, accepted the aforesaid dedication.

Thus, there can be no controversy between the city and the Lincoln Park Commissioners as to the eastern boundary line of Montrose Avenue. The city also owns the lot lying north of Montrose Avenue (including the shore front and riparian rights) upon which is located the Lake View Pumping Station. This lot is 230 feet in width along the shore and the street is sixty-six feet in width.

The method of procedure which should be adopted prior to extending the pier into the lake at this point, will be considered below.

#### 5. AS TO THE TWENTY-SECOND STREET BEACH AND PIERS.

I am credibly informed that the Illinois Central Railroad Company has acquired all the riparian rights north of Fifth Street and south of Twelfth Street, excepting that portion of the lake shore which lies between the center line of Twenty-second Street and a line produced into the lake from a point 160 feet south of Twenty-fifth Street, which last-mentioned piece of land is part of the subject-matter of the committee's inquiry.

On July 27, 1852, the Illinois Central Railroad Company acquired from Stephen A. Douglas the property upon which is now located its right of way along the lake shore between the last-mentioned points, the deed expressly reserving in Douglas all title, right and ownership to land and water between the eastern line of said railroad and the center of Lake Michigan and bounded by due east lines drawn from the north and south ends of said tracts of land. A copy of this deed is hereto attached and marked "Exhibit C."

Mary Morris Walker succeeded to all the interests of the late Stephen A. Douglas, and her heirs now claim to be the owners of this tract of land, a plat of which is hereto attached and marked "Exhibit D." The plat shows 2,240 feet of frontage of this piece of property. Inasmuch as the boundary of Twenty-second Street is the west line of the right of way of the Illinois Central Railroad, the city could not contend it had any riparian rights in the submerged land easterly of the said company's right of way at this point, since contact with the water is necessary to the establishment of riparian rights.

On the question of method of procedure for the construction of a pier and filling in at this location, see below under heading "Procedure."

#### 6. AS TO THE SITUATION AT FIFTY-FIRST STREET.

The records of the Old Town of Hyde Park disclose that during the year 1871 a sewer was constructed extending into the lake at Fifty-first Street, and a contract was awarded for the erection of a pier for the protection of the sewer.

This pier, I learned from witnesses—old residents of the vicinity—was from time to time extended eastward along the north line of Fifty-first Street. The reports as to who extended the pier, running east and west into the lake, do not all agree. It is claimed by some that the Village of Hyde Park extended the pier, others assert that one James Morgan produced the result.

The records of the Map Department, as well as the reports of the old residents of the vicinity, do, however, coincide as to the location of the shore line of Lake Michigan at this point during the last thirty-five years. The plat hereto attached, marked "Exhibit E," shows the shore line in 1875 to have intersected Hyde Park boulevard (Fifty-first Street), at a point about fifteen feet east of the east line of East End Avenue.

Old residents remember when the waters at this point washed up on East End Avenue and partially covered the northerly two hundred feet thereof. The present shore line at Fifty-first Street is about 380 feet east of the east line of East End Avenue, as shown on the two plats hereto attached and marked "Exhibit F" and "Exhibit G," respectively. Practically all of the land which lies north of Fifty-first Street and east of a pier running north and south extending from the east and west pier above referred to has been made within the last twenty-five years.

In 1882 the aforesaid James Morgan constructed this north and south pier, which, taken in connection with the east and west pier, forms an L-shape projection into the lake. Upon the construction of the north and south pier, the waves and wind from the north carried in vast quantities of sand which were deposited north of Fifty-first Street; that Morgan himself made the greater part of this land cannot be successfully denied. It is said that he would permit no fishermen, excepting those in his employ, to fish off the pier, nor would he allow any boat to land or tie up at this pier. Shortly after the construction of the pier, Morgan erected thereon a dredge and scooped the sand from the bottom of the lake outside the pier, and carrying it over the pier deposited it in the inside shallow water until, when his work was completed, the land extended out into the lake north from the east and west pier a distance of about 320 feet, as shown on the plat submitted. The excess sand he is said to have sold, the revenue therefrom amounting to as much as \$100 a day, according to the reports of those familiar with the facts.

Under the law, this land which was made by filling in, as well as the land which was produced by the action of the waves in beating up against the L-shaped projection, could not become the property of James Morgan. What natural accretions were produced by the natural action of the wind and waves have been so commingled with the artificial accretions and made land as to become a part thereof, and, under the decisions above cited, the State of Illinois, undoubtedly, has become vested with all the land beyond the limitations of the boundaries defining Morgan's possession along Fifty-first Street on the north side of Fifty-first Street east of the west line of East End Avenue extended.

#### 7. AS TO THE RECLAMATION OF SUBMERGED LAND KNOWN AS "MOROAN'S REEF."

If the city were granted permission to fill in the lake from the shoal waters opposite Fifty-first Street, the title to such land would be vested in the city and the shore owner would have no claim or right thereto.

"An island arising in navigable water and afterward becoming joined to one shore belongs to the State and not to the owner of the shore, and the shore owner will have title only to such portion of the new land as was formed by accretions to his shore." (Farnham, Vol. 1, p. 276.)

"If the process is such that an island first arises from the water and after-

ward becomes connected to the land by the addition of accretions to it, the title to the island will not vest in the riparian owner." (Farnham, Vol. 1, p. 323.)

"Imperceptible accumulation of soil upon the shores of an island in the great lakes whereby it is enlarged belongs to the owner, but if the island first arises from the water and afterward becomes connected to that of the private proprietor it would not belong to him, but to the State." (People v. Warner, 116 Mich. 228.)

"To entitle the riparian owner to the land, the water must begin to recede from his land. It is not sufficient if the recession begins at some other point and finally reaches his land." (Farnham, Vol. 1, p. 322.)

The title of the shore owner is not established where it appears that as the waters receded they at first left islands separated from the land of the shore owner and from each other by squales or depressions in which the water remained for some time before the whole tract became dry." (Hammond v. Sheppard, 186 Ill. 235.)

The riparian owner acquires only the natural accretions which are adjacent to and in contact with his shore boundary.

#### 8. POWER OF THE CITY TO ESTABLISH BATHING BEACHES.

Section 6 of the Act of May 18, 1905, relating to the City of Chicago, empowers the city to acquire, by purchase or otherwise, municipal parks, playgrounds, public beaches and bathing places and improve, equip, maintain and regulate the same.

Section 7 of said Act authorizes the city to exercise the right of eminent domain by condemnation proceedings in conformity with the provisions of the Constitution and statutes of the State of Illinois for the acquirement of property useful, advantageous or desirable for municipal purposes, and the procedure in such cases, the statutes provide, shall be, as nearly as may be, like that provided for in the Act entitled "An Act Concerning Local Improvements," approved June 4, 1897, in force July 1, 1897, as now or hereafter from time to time amended.

It cannot be successfully maintained but that the city if it secures permission from the proper authorities, has the power to proceed with the establishment of bathing beaches and recreation piers as necessary adjuncts thereto.

#### PROCEDURE.

##### A

Inasmuch as the Lincoln Park Commissioners unquestionably have title to the submerged land along the north shore from Byron Street (now Sheridan Road), extended, to the north line of Montrose Avenue, extended, their consent should be first had and obtained before any improvement is made at this point. In my opinion, legislative enactment in favor of the city would not be necessary for the construction of this pier.

##### B

No work should be done by the city at Twenty-second Street without permission (1) from the Government; (2) from the heirs of Mary Morris Walker; (3) from the South Park Commissioners; and (4) from the State of Illinois.

Notwithstanding what has been heretofore stated, I believe that the various park authorities should be consulted and their co-operation and permission secured, as a condition precedent to the construction of any pier in or over the submerged land.

##### C

The City of Chicago should render all possible assistance to the State of Illinois in securing for the State possession of the made land, heretofore mentioned, north of Fifty-first Street, and upon the State maintaining its title therein, permission of the Legislature, as well as of the South Park authorities, should be obtained before any construction work or filling in is commenced at this point.

## D

Upon an understanding with the South Park Commissioners, a bill should be introduced in the Legislature by force of which the city would be authorized to fill in the shallows opposite Fifty-first Street for park and recreation and bathing-beach purposes.

This land, when filled in, as well as the land proposed to be made by dumping at Twenty-second Street, will, in the event permission is secured from the proper authorities for the doing of the contemplated work, unquestionably become the property of the City of Chicago.

But before any improvements in the nature of piers, the making of islands in the lake, or other obstructions are commenced, authority from the Secretary of War should be secured. Permission from the War Department for the construction of piers does not override the rights of the State in the submerged land, but, however, amounts to a declaration by the Government that the proposed structure will not interfere with navigation. (*Cobb v. Commrs. Lincoln Park, supra.*)

## SUGGESTIONS.

I take the liberty of adding to this communication that the committee might well co-operate with the Special Park Commission in urging the next session of the General Assembly to authorize the City of Chicago to construct a pier at Seventy-ninth Street, and to reclaim the large tract of submerged land, which, when reclaimed, will be an imposing addition, in the way of a park, to the present small bathing beach located just south of Seventy-ninth Street.

I note, by the daily papers, that Alderman Jones proposes that the city should purchase the lake frontage from the south line of the South Shore Country Club property to Seventy-ninth Street and should hold the same for bathing-beach purposes.

In this connection, I desire to call the attention of the committee to the aforementioned Act of 1903, turning over all the submerged land between the aforesaid points to the South Park Commissioners. This board should be consulted before the city proceeds with this project.

The writer would be glad to attend the meeting of your committee and explain in detail any portion of this communication which may need elucidation or elaboration.

Respectfully submitted,

HOWARD W. HAYES,  
*Assistant Corporation Counsel.*

APPROVED:

EDWARD J. BRUNDAGE,  
*Corporation Counsel.*

October 1, 1909.

*Mr. Howard W. Hayes, Assistant Corporation Counsel, through Hon. Edward J. Brundage, Corporation Counsel:*

DEAR SIR,—On behalf of the Committee on Bathing Beaches and Amusement Piers, I beg to acknowledge the receipt of your opinion dated September 25, 1909, forwarded in response to my letter of August 17.

It is, perhaps, not out of place for me to say at this time that our committee desires to express its appreciation and commendation of the vast amount of care, investigation and painstaking detail shown in the preparation of the opinion forwarded to us.

Referring to subdivision 8 of said opinion entitled "Power of the City to Establish Bathing Beaches," you say:

"Section 6 of the Act of May 18, 1905, relating to the City of Chicago, empowers the city to acquire by purchase or otherwise, municipal parks, playgrounds, public beaches and bathing places, and improve, equip, maintain and regulate the same.



"Section 7 of said Act authorizes the city to exercise the right of eminent domain by condemnation proceedings in conformity with the provisions of the Constitution and statutes of the State of Illinois for the acquirement of property useful, advantageous or desirable for municipal purposes, and the procedure in such cases, the statutes provide, shall be, as nearly as may be, like that provided for in the Act entitled, 'An Act Concerning Local Improvements,' approved June 4, 1897, in force July 1, 1897, as now or hereafter from time to time amended."

The foregoing quotation becomes of special importance to our committee when considered in connection with the possible procedure on the part of the city to acquire by condemnation the riparian rights over such submerged lands as may be acquired from the State for bathing beaches and amusement piers.

The South Park Board not having acquired title to submerged lands under the Acts of 1903 and 1907, it would greatly simplify the procedure of our committee if, upon the acquisition of the title to submerged lands, the city could, by its right of eminent domain, or otherwise, condemn the riparian rights of adjacent owners in the submerged lands so acquired.

Our committee would therefore be pleased to have you advise it further and more in detail with reference to the powers of the city to condemn riparian rights in submerged lands, the title of which lands may be acquired by legislative grant or transfer, from the State to the city.

Yours very truly,

THEODORE K. LONG,

*For the Committee on Bathing Beaches and Amusement Piers.*

**IN re POWERS CONFERRED UPON THE CITY BY SECTIONS 6 AND 7 OF AN ACT RELATING TO THE CITY OF CHICAGO.**

October 30, 1909.

*Hon. Theodore K. Long, Committee on Bathing Beaches and Recreation Piers:*

DEAR SIR,—The Corporation Counsel has directed me to reply to your communication of October 1, 1909, in which you request an opinion upon the power of the city "to acquire by condemnation the riparian rights over submerged land." I note, particularly, that you desire to be advised with reference to the extent of the authority granted to the City of Chicago by virtue of sections 6 and 7 of an Act of the Legislature of May 18, 1905, relating to the City of Chicago.

You will recall that by virtue of Section 6 of said Act the city is empowered "to acquire by purchase or otherwise, municipal parks, playgrounds, bathing beaches and bathing places" and "improve, equip, maintain and regulate the same"; and that by Section 7 of said Act the city is authorized "to exercise the right of eminent domain by condemnation proceedings in conformity with the provisions of the Constitution and the statutes of the State of Illinois for the acquirement of property useful, advantageous or desirable for municipal purposes," the procedure to be "as nearly as may be like that provided in the Act entitled 'An Act Concerning Local Improvements,'" etc.

Prior to the enactment of the aforesaid statute the City of Chicago could not acquire property for the purposes aforesaid by private purchase, inasmuch as, according to the opinion of the Supreme Court, in the case of *Snyder v. Village of West Hammond*, 225 Ill. 154, such procedure "would lead to favoritism, corruption, private bargain and the exercise of improper influence."

The methods prescribed by statute for the acquisition of real estate by a municipality, namely, by prescription, dedication and condemnation, are generally exclusive methods, hence the authority vested in the city by virtue of the provisions of Section 6 is of material advantage in the plan which your committee has under consideration.

Section 7 of the aforesaid Act can be of little or no significance in determining the course to be adopted for the acquiring of bathing-beach sites, for when analyzed and considered, the Legislature has merely permitted the city to exercise the right of eminent domain only where property is acquired which is

"useful, advantageous or desirable for municipal purposes" where the purpose itself when carried out would be a *local improvement*. A local improvement within the meaning of the statute is a public improvement which by reason of its being confined to a locality, *enhances the value of adjacent property* as distinguished from the benefits diffused by it throughout the municipality.

I can find no reported case in which it has been held that the establishment of a bathing beach is considered a local improvement.

I have discussed the question herein involved at length with Mr. George A. Mason, attorney for the Board of Local Improvements, and he concurs with me in the view that I have taken, namely, that Section 7 above referred to confers no advantage upon your committee in its proposed plan. I must, therefore, advise your committee that, even though the city should acquire the title to the submerged land under the waters of Lake Michigan, the only procedure by which it is empowered to secure either the riparian rights or the real estate of the shore owners is by dedication or other form of donation, lease or other form of contract.

Respectfully submitted,

HOWARD W. HAYES,  
*Assistant Corporation Counsel.*

APPROVED:

EDWARD J. BRUNDAGE,  
*Corporation Counsel.*

## APPENDIX B.

1. EXTRACT FROM THE *Record-Herald* OF APRIL 3, 1910, CHICAGO BEACH HOTEL SUIT.
2. EXTRACT FROM THE *CHICAGO News* OF MAY 19, 1910, ON THE FILING OF SUNDRY SUITS FOR THE RECOVERY OF THE LAKE FRONT.

1. Extract from the *Record Herald*, April 3, 1910.

Proceedings were begun yesterday by Attorney General Stead and State's Attorney Wayman to oust the Chicago Beach Hotel from the made land off Fifty-first Street, occupied by a part of its buildings.

This is said to be the first shot in the warfare that the State will begin against all persons and corporations who are occupying made lands along the waters of Illinois.

Much of the credit for the promptness with which the proceedings have been brought against the Chicago Beach Hotel, Clara M. Jones, the present owner of the property, and James Morgan, who owned the shore line property when the new land was made, is due to Ald. Theodore K. Long and members of the Lake Shore Reclamation Commission. For months this commission has been seeking some means of establishing bathing beaches at various points along Lake Michigan, but it discovered that almost all available lands had been reclaimed by shore line owners and are held, it is said, illegally, by them.

Conferences have been held with Corporation Counsel Brundage and with the attorney general and the state's attorney, the result being the filing of the present suit.

\* \* \* \* \*

Ald. Long took the matter up with Attorney General Stead and obtained his sanction to the plan. The city was to furnish the evidence and the attorney general and state's attorney were to file the information with the court.

\* \* \* \* \*

According to the information obtained by the Lake Shore Reclamation Commission, James Morgan, about the time of the big Chicago fire, purchased a tract of 3.6 acres of land north of Fifty-first Street and east of the Illinois Central tracks. Despite the continual washing away of the shore lands this particular tract now contains 11.52 acres, or an increase of nearly eight acres in thirty-nine years.

Morgan accomplished his feat of landmaking by simple methods. With a pile driver, a crew of men, a few boat loads of lumber, he built a pier running east from the north side of Fifty-first Street. This work he continued from year to year until in 1882 the pier had reached a length of 600 feet. Then he built a pier to the north from the east end of this east and west pier, and by 1889 he had completed a north and south pier 720 feet long.

During all the time he was building this last pier Morgan kept a clam shell dredge busy picking up sand from outside the end of the pier and dumping it inside. This was a quick way of making land, but that was not the only benefit Mr. Morgan derived, for he sold much sand at \$1 a load.

#### Lease to Hotel Company.

In 1892, when the World's Fair was nearly ready to open, Morgan leased the west 400 feet of his tract to the Chicago Beach Hotel Company. This strip contained some of the made land, and one of the provisions of the lease was that the lessee should have no right to interfere with Morgan in the building of piers and filling and improving the land.

The State holds that the lands under Lake Michigan belong to the State of Illinois, and that it is the duty of the State officers to preserve that land for the use of the public, and that no municipal or private corporation or individual has the right to exercise exclusive control or to trespass upon such submerged lands by the erection of piers or otherwise reclaiming them.

The State authorities concede the right of owners of shore lands to build piers for the purpose of assisting navigation, but it is contended that these piers were not intended to accommodate boats, but were built solely for the purpose of reclaiming the bottom of the lake, and therefore the piers are illegal and the land illegally held.

## 2. Extract from the *Chicago News*, May 19, 1910.

Chicago launched its fight to regain the South Side lake front today. Six suits filed in the Superior Court when it opened at 10 A. M. are declared by municipal officials to be the most momentous litigation which the city has ever started for the public welfare, not excepting even the traction cases which invalidated the ninety-nine-year franchises. Millions of dollars' worth of "made land," now among the most valuable property in the city, are involved. If the city eventually is successful, the entire lake front from East Sixteenth to East Fifty-sixth Streets, four and one-half miles long and at some places stretching back more than 500 feet, will be converted into a municipal park of shady groves, bathing beaches and recreation piers. Bitter opposition from "squatters," powerful corporations and influential families which now hold the land is assured, and it will be several years before the courts can determine title to the property.

The defendants are: The Illinois Central Railroad, occupying the lake front with its right of way continuously between East Sixteenth and East Fifty-first Streets.

Mrs. Clara M. Jones, sole surviving daughter of James Morgan, occupying a tract north of East Fifty-first Street, part of which is covered by the Chicago Beach Hotel, and another strip extending 511 feet south from East Fifty-fourth Street.

Mrs. Florence Pullman Lowden and Mrs. Harriett Pullman Carolan, heirs of George M. Pullman, occupying a narrow strip 330 feet long, north of Fifty-fourth Street.

Fanny F. Brega and James Barrell of Evanston, holding a large section, 619 feet long, south of the Morgan holdings and extending to East Fifty-fifth Street.

Charles B. Shedd, 3812 Michigan Avenue, occupying 160,000 square feet for a distance 497 feet south of East Fifty-fifth Street.

Mrs. Augusta Lehmann, Emelie W. Peacock, Edward J. Lehmann, Augusta E. Lehmann, Otto W. Lehmann, Edith M. Lehmann and Ernst E. Lehmann, representing the Lehmann estate, holding the remaining 230 feet of frontage to East Fifty-sixth Street.

The South Park Commissioners are a party defendant to each of the suits. There is not entire harmony between the two municipalities over the litigation.

\* \* \* \* \*

A prior suit against the Morgan estate relating to the property on which the Chicago Beach Hotel stands, was filed several weeks ago. The estate of Mrs. Mary Morris Walker, widow of George C. Walker, also eventually will be brought in, as it claims ownership of the frontage from East Twenty-second Street to 200 feet south of East Twenty-fifth Street, an area which is occupied by the Illinois Central Railroad.

The suits were prepared in the office of Edward J. Brundage, Corporation Counsel, by Adolph Traub and Oscar H. Olsen, two of his assistants. They are in the form of quo warranto proceedings and are brought in the name of the State, the informations to be filed in court being signed by William H. Stead, Attorney General of Illinois, and by State's Attorney Wayman, Corporation Counsel Brundage and Theodore K. Long.

The city administration has been planning to get possession of this and other shore land for many months.

\* \* \* \* \*

And after the appointment of the Lake Shore Reclamation Commission by Mayor Busse in pursuance of a resolution offered by Ald. Theodore K. Long

January 24, 1910, developments came rapidly. The commission consists of Aid. Long and Mr. Brundage, Corporation Counsel, and Dr. W. A. Evans, Health Commissioner.

The city law department has been working on the preparation of the cases continuously for months. Surveys of the entire lake front have been made. Charts showing how the lake has been filled in since the shore lines were fixed by surveys of June 10, 1879, and July 13, 1887, have been prepared. All of the immense holdings of the Lehmann, Shedd, Brega and Barrell interests have accrued from the lake in the last thirteen years.

The Morgan holdings, now owned by Mrs. Jones, had a slower growth. James Morgan purchased for a low price a strip of land between the Illinois Central tracks and the lake about the time of the big fire. It was three and six-tenths acres then and is eleven and fifty-two-hundredths acres now, the lake generously having added seven and ninety-one hundredths acres. He got busy with a pile driver and odds and ends of lumber until ten years later he had a pier 600 feet long straight out into the lake. Then he turned it north and in eleven more years had extended it 750 feet in that direction. In World's Fair time, twenty years after his start, his piers were catching sand so fast that he sold \$50 worth a day and had enough left to lease a site to the Chicago Beach Hotel.

## APPENDIX C.

RESOLUTION OF THE CITY COUNCIL CALLING UPON THE GOVERNOR  
TO CONVENE THE GENERAL ASSEMBLY IN SPECIAL SESSION.

The following resolution was unanimously adopted by the City Council at a regular meeting held February 19, 1912. (Council Proceedings, p. 2940.)

WHEREAS, By an Act of the Legislature of the State of Illinois, approved May 2, 1907, the South Park Commissioners acquired the right to fill in and reclaim the submerged lands in Lake Michigan, between Grant Park and Jackson Park, for the purpose of constructing a boulevard, driveway or parkway, connecting said parks; and

WHEREAS, Said South Park Commissioners did not under and by the aforesaid Act of the Legislature acquire full power to condemn the riparian rights of all shore owners; and

WHEREAS, Several public hearings have recently been held before the Committee on Harbors, Wharves and Bridges of the City Council of Chicago, to consider a certain contract for the acquisition of riparian rights, made and entered into between the said South Park Commissioners and the Illinois Central Railroad Company, December 11, 1911, and said Committee has not considered favorably the aforesaid contract; and

WHEREAS, The members of the City Council of the City of Chicago believe that the rights of the people of the City of Chicago and of the public at large can be better protected and preserved by giving to said South Park Commissioners full power to condemn riparian rights; and

WHEREAS, The members of the City Council of Chicago believe that an emergency exists; therefore, be it

*Resolved*, By the City Council of the City of Chicago, that His Excellency, the Honorable Charles S. Deneen, Governor of the State of Illinois, be and he is hereby respectfully requested to convene the General Assembly of the State of Illinois in a special session to amend the aforesaid Act, approved May 2, 1907, granting the said South Park Commissioners full power to condemn riparian rights.

## APPENDIX D.

1. EXTRACT FROM CHICAGO *Evening Post* OF JULY 13, 1911.
2. IMPORTANT CONFERENCE HELD AT UNION LEAGUE CLUB RELATIVE TO LAKE SHORE LANDS.

A shore park link between Grant and Jackson Parks, with unlimited bathing beach facilities for the entire nine-mile frontage, took an important step toward realization today when the main obstacle which has been holding back the project gave prospect of being cleared away.

At a luncheon at noon today at the Union League Club, attended by representatives of lake shore land claimants, Chairman John Barton Payne of the South Park Commission, Mayor Harrison, Corporation Counsel Sexton and Alderman T. K. Long, chairman of the Lake Shore Reclamation Commission, a proposition by which all of these bodies and individuals will work together for a public park lake shore was discussed with almost unanimous favor.

While none of those present had power to give final sanction to the method of adjustment proposed, none expected to encounter any difficulty in carrying out any plan the wisdom of which they were convinced.

According to the plan outlined, the city's legal department and the South Park Commissioners will combine to procure the settlement out of court of the suits against holders of lake frontage between Grant and Jackson Parks. They will take advantage of the special empowering act passed by the Legislature giving the park commissioners power to negotiate for riparian rights to land in making a connecting link between two parks, and giving in return for cession of shore rights an agreed section of made land.

In view of the tangle in titles to most of the shore land between Grant and Jackson Parks and the city's suits now pending, most of the claimants are ready to get a sure thing in land abutting any proposed lake front park, rather than cling to riparian rights which they may lose without recompense.

At the same time the plan will enable the public to come into possession of the lake shore without necessitating any cash payments.

Consummation of this plan will leave the city free to proceed with the proposed utilization of waste matter in constructing the lake shore park in the same manner in which Grant Park has been built. This cannot be done until the title to riparian rights has been taken from private owners.

## APPENDIX E.

EXTRACT FROM THE CHICAGO TRIBUNE, NOVEMBER 26, 1911.

The following extract from the *Chicago Tribune*, November 26, 1911, presents a fair statement of the progress of the proceeding up to that date:

A second boulevard entrance to Chicago's down town district and to Grant Park from the south is being planned for completion by June, 1913.

This information was given yesterday after the South Park Commission had reached an agreement with city authorities regarding the use of the Lake Michigan shore between Grant Park and Thirty-first Street. The South Park Commission wishes the city to modify provisions of the recent ordinance establishing Harbor District Number 3.

In the agreement, which will be submitted to the City Council for confirmation, are the following details:

Build a boulevard viaduct over the Illinois Central Railroad tracks from South Park Avenue reaching north and east to Grant Park. This is the link that it is expected will be furnished by the summer of 1913.

Establish a pier for pleasure and excursion boats in the lake off Twenty-second Street.

Establish two bathing beaches along the lake shore between Twenty-second Street and Jackson Park.

Connect the pier and bathing beaches with the territory west of the railroad tracks by viaducts or tunnels.

Eventually build a lake shore drive from Grant Park to Fifty-first Street, on land to be made by filling in the lake east of the railroad tracks.

All riparian rights from Sixteenth to Twenty-second Streets so far as the South Park Commissioners are concerned, belong to the city in perpetuity.

The city reserves the right to cross the property of the commissioners if a harbor is built.

The city conveys a slip now owned by it just south of Grant Park to the South Park Board.

The city agrees that the rights granted to it shall not be exercised except by it as a municipality.

The South Park Commission, according to John Barton Payne, has been negotiating with the Illinois Central Railroad Company for a long time regarding use of its right of way for public purposes. The agreement with the city authorities indicates these negotiations have advanced so favorably to the projects of the commission that definite ideas of intended improvements are now formed. Mr. Payne said the negotiations with the Illinois Central have not yet been concluded.

According to the agreement, however, the commission is assured it can build a boulevard over the tracks of the Illinois Central from South Park Avenue, Twenty-second Street, and the lake north to Grant Park. At other points it agrees, either to dig tunnels under or to construct viaducts over its right of way to the lake frontage beyond.

The intended new link is virtually an extension of South Park Avenue north along the lake front to Grant Park.

The park board had already passed a tentative resolution giving the city riparian rights to the submerged lands in the territory affected. It also, by resolution, gave the city a right to construct at some later date an outer harbor east of the proposed boulevard with railroad tracks leading to it.

The South Park Commissioners have long planned to improve that part of the lake shore east of the Illinois Central tracks. Numerous plans have been made, but little has been done.



When the City Council on Monday night passed ordinances establishing harbor districts, the territory between Grant Park and Thirty-first Street was designated as District Number 3—a site for one harbor. When the South Park Commissioners learned of the council's action they saw that their plans for a shore beautiful on the south side were in danger of being discarded forever.

They called a hasty conference, and John Barton Payne, President of the Board, was sent to the Mayor. He urged the Mayor to ask the City Council to rescind its action establishing Harbor District Number 3.

The conference was attended by Mr. Payne, Ald. Theodore K. Long, Chairman of the council sub-committee on harbor development; Robert Redfield, counsel for the South Park Board; Maclay Hoyne, First Assistant Corporation Counsel, and Mayor Harrison.

It was agreed that the Mayor will either ask the council to rescind its action regarding Harbor District Number 3 or veto the ordinance.

## APPENDIX F.

AGREEMENT OF DECEMBER 11, 1911, BETWEEN THE SOUTH PARK COMMISSIONERS AND THE ILLINOIS CENTRAL RAILROAD COMPANY AND PROPOSED ORDINANCE OF THE CITY COUNCIL RATIFYING SAID AGREEMENT.

## AN ORDINANCE

RATIFYING, APPROVING AND CONFIRMING A CERTAIN CONTRACT ENTERED INTO DECEMBER 11, 1911, BETWEEN THE SOUTH PARK COMMISSIONERS AND THE ILLINOIS CENTRAL RAILROAD COMPANY; DEFINING CERTAIN RIGHTS AND PRIVILEGES OF THE CITY OF CHICAGO, THE SOUTH PARK COMMISSIONERS AND THE ILLINOIS CENTRAL RAILROAD COMPANY IN RESPECT TO THE LANDS ADJOINING AND UNDER THE WATERS OF LAKE MICHIGAN, THE LOCATION OF THE FIELD MUSEUM OF NATURAL HISTORY AND THE LOCATION AND CONSTRUCTION OF A RAILROAD PASSENGER TERMINAL BY THE ILLINOIS CENTRAL RAILROAD COMPANY; CONSENTING TO THE TAKING BY SAID SOUTH PARK COMMISSIONERS FOR BOULEVARD PURPOSES OF THE PORTION OF EAST TWELFTH STREET LYING BETWEEN THE EAST LINE OF MICHIGAN AVENUE AND THE WEST LINE OF THE RIGHT OF WAY OF THE ILLINOIS CENTRAL RAILROAD COMPANY; AND PROVIDING FOR THE VACATION OF PORTIONS OF CERTAIN STREETS AND ALLEYS AND FOR OTHER MATTERS.

WHEREAS, on December 11, 1911, the South Park Commissioners, a municipal corporation, entered into a certain contract with the Illinois Central Railroad Company, a corporation, in the words and figures following, to-wit:

"THIS AGREEMENT, MADE THIS 11TH DAY OF DECEMBER, A. D. 1911, BETWEEN THE SOUTH PARK COMMISSIONERS, A MUNICIPAL CORPORATION, CREATED BY THE LAWS OF THE STATE OF ILLINOIS, HEREINAFTER CALLED THE COMMISSIONERS, PARTY OF THE FIRST PART, AND THE ILLINOIS CENTRAL RAILROAD COMPANY, A CORPORATION OF SAID STATE, HEREINAFTER CALLED THE COMPANY, PARTY OF THE SECOND PART, WITNESSETH:

WHEREAS, the Commissioners now have control over the public parks in the City of Chicago, Illinois, known as Grant Park and Jackson Park, both of which border upon public waters in this State, to-wit, the waters of Lake Michigan, and are now separate; and

WHEREAS, the Commissioners, under the authority vested in them by the laws of said State, wish to extend Jackson Park over and upon the bed of said public waters adjoining thereto, and to connect Jackson and Grant Parks by a boulevard, driveway or parkway extending over and upon the bed of the said public waters, and over and upon any lands penetrating into said waters, consistently, however, with the practical navigation of said public waters for the purposes of commerce; and,

WHEREAS, the Company is the owner of certain lands, piers, docks and rights thereto pertaining, adjoining or near to the southerly end of said Grant Park and penetrating into the said waters east of the boundary line herein estab-

lished, which said Commissioners desire to acquire for the purposes hereinafter stated; and,

WHEREAS, said Company claims to own the greater part of the lands and the riparian and other rights pertaining to such lands on the shores adjoining said public waters between the south line of Lake Park Place (formerly known as Park Row) extended eastwardly, and a point in the east line of Section Eleven (11), Township Thirty-eight (38) North, Range Fourteen (14) east of the third principal meridian, in the said city, hereinafter fixed as the southerly end of the said boundary line to be established, except the lands and riparian and other rights of the City of Chicago, and except as hereinafter provided; and is also the owner of certain lands penetrating into said public waters beyond the said boundary line, upon and over which it is proposed to construct such extension and connection, and the construction of such extension and connection will interfere with or destroy the enjoyment by said company of its said riparian rights and necessitate the appropriation by said Commissioners of that part of the said lands of the Company penetrating into the said public waters beyond said boundary line; and the acquisition by the Commissioners of said riparian rights and such part of the said penetrating lands of the Company is necessary to the construction of the proposed boulevard, driveway or parkway; and,

WHEREAS, the Commissioners and the Company desire to agree, in form and manner provided by the laws of the State of Illinois, upon a permanent boundary line dividing between the said Commissioners and the Company the submerged and other lands which extend from the east line of the right of way of said company, into and under the said public waters between the terminus of the said boundary line as hereinafter described, and to fix and define the part of such submerged and other lands which shall be taken, owned and used by the Company, in lieu of, and as compensation for, the release to the Commissioners of its said riparian rights and its interest in the part of said lands penetrating into the said public waters beyond the said boundary line, and to confirm in the said Commissioners' title, jurisdiction and control, for park purposes, as provided by law, over the said riparian rights of the Company and the part of said lands penetrating beyond the said boundary line; and,

WHEREAS, the said Company claims to be the owner, as aforesaid, of the greater part of the said shore lands, the riparian rights pertaining thereto, and of the said penetrating lands between the termini of the said proposed boundary line except as aforesaid, and except as hereinafter provided, and the Commissioners wish to have established, without delay, the said boundary line opposite the said shore lands owned by the Company, to thereby secure the early use, for park purposes, of certain of the said penetrating and other lands on the easterly side of such boundary line, to the end that there may be confirmed in said Commissioners the complete title, jurisdiction and control, for park purposes, as provided by law, over all of said riparian rights and lands penetrating beyond the said boundary line between the said termini, and that there may be confirmed in the Company the right and title to the submerged and other lands between the said easterly line of its present right of way and the said boundary line as hereinafter provided, excepting, however, the part of said line which extends through the land now occupied and used by the City of Chicago for its Thirty-ninth Street Pumping Station and held by it under a deed from the Company dated August 17, 1898, which land is not intended to be included herein, as to which special provision is hereinafter made:

Now, THEREFORE, in consideration of the premises and of the benefit to result to each of the parties herefrom, and the mutual covenants and agreements of the parties herein contained, but subject to the approval of the Circuit Court of Cook County, Illinois, as hereinafter provided, it is covenanted and agreed between the Commissioners and the Company, as follows:

ARTICLE I. The permanent boundary line dividing the submerged and other lands and rights to be acquired, taken, owned and used by the Commissioners and the submerged and other lands and rights to be acquired, taken, owned and used by the Company (in lieu of, and as compensation for, the release of said riparian rights and said part of said penetrating lands to the Commissioners as hereinafter provided) here contemplated and intended to be established, as

the rights and interests essential thereto may be acquired as hereinafter provided, is the line described as follows, namely:

Commencing at a point in the south line of said Lake Park Place, produced easterly, that is seven hundred and sixty-one (761) feet east of the west line of Michigan Avenue, and extending thence southeasterly in a straight line to intersect with the north line of Thirteenth Street produced east at a point seven hundred (700) feet east of the west line of Indiana Avenue, thence southeasterly in a straight line to intersect with the north line of Eighteenth Street produced east at a point six hundred and sixty (660) feet east of, measured at right angles to, the westerly line of the Company's waylands as now established; thence southeasterly in a straight line parallel to and six hundred and sixty (660) feet from said westerly waylands line to the intersection with the north line of Twenty-ninth Street produced east; thence southerly in a straight line to intersect with the north line of Thirty-first Street produced east at a point four hundred (400) feet easterly from, measured at right angles to, said westerly waylands line; thence southeasterly, parallel to and four hundred (400) feet easterly from said westerly waylands line to intersect with the center line of Forty-first Street produced east; thence continuing southerly parallel to and four hundred and fifty (450) feet easterly from said westerly waylands line to intersect with the east line of Section Eleven (11), Township Thirty-eight (38) North, Range Fourteen (14) east of the third principal meridian, except the part thereof extending through the said lands of the City, which said line, with its courses and distances, is shown in red on the plat hereto attached and made part hereof; and in so far as the said line is located along and opposite lands on the shore adjoining the said public waters, which, together with the riparian rights pertaining thereto, are now owned by the Company, it, the said line, is hereby established, acknowledged and confirmed, subject to the approval of the said Circuit Court, as the said permanent boundary line dividing the submerged and other lands and rights to be acquired, taken, owned and used by the Commissioners and the submerged and other lands and rights to be acquired, taken, owned and used by the said Company.

In the event that the City Pumping Station at Thirty-ninth Street shall be removed and the site and city lands upon which it is situated acquired from the City, the land shall be divided between the parties hereto by the said permanent dividing and boundary line, and the expense shall be shared between the parties in like manner as in case of the adverse interests to be acquired under this agreement.

ARTICLE II. Should it appear at any time that there are any adverse interests (except the interests of the City of Chicago pertaining to its pumping station situated at Thirty-ninth Street, above referred to), such adverse interests shall be acquired by the Company and from time to time as such adverse interests, if any, are obtained, the Commissioners shall take such steps as are contemplated by the Act under which such proposed boundary line is to be obtained, to secure the final confirmation and establishment of the said dividing and boundary line, through each, and the submerged and other lands and rights derived from such adverse interests, if any, shall be divided between the parties hereto in the same manner and by the same permanent boundary line hereinbefore described as in case of the lands and rights now owned by the Company.

And the Commissioners shall pay to said Company on demand from time to time one-half ( $\frac{1}{2}$ ) the price or cost and expense of the acquirement of any such adverse interests, provided the amount of the price, cost or expense for one-half ( $\frac{1}{2}$ ) of which demand is made at any time has been approved by the Commissioners before the obligation therefor was incurred. If the Commissioners have not approved or do not approve the price, cost or expense, then the amount which the Commissioners shall pay shall be determined by the finding of a majority of three (3) arbitrators, one to be chosen by each of the parties hereto, and the third to be named by the Judge of the District Court of the United States for the Southern District of Illinois. The arbitrators shall determine what would have been a reasonable price, cost or expense under all the circumstances, and shall require each of the parties hereto to bear not less than one-half ( $\frac{1}{2}$ ) of such reasonable price, cost or expense, not to exceed one-half ( $\frac{1}{2}$ ) of the actual price, cost or expense.

The term "adverse interests" as used in this agreement shall be taken to include any lands, riparian rights or interests not owned by the Company. Should the Company fail to acquire such adverse interests, or any of them, within a reasonable time through inability to reach an agreement on the price, or for any cause, the Commissioners may purchase such adverse interests, or any of them, and shall be reimbursed by the Company in the same manner as it is herein provided that the Company shall be reimbursed by the Commissioners in case of a purchase by the Company, the situations being reversed, and the same provisions shall be applicable. Both parties to this agreement shall co-operate with each other to the fullest extent, and exercise all their legal powers to perfect the entire permanent and dividing boundary line and to carry out the purposes of this agreement.

ARTICLE III. The Commissioners shall, without delay, file from time to time as may be necessary a petition or petitions, or bill or bills, in chancery, on the chancery side of the Circuit Court of Cook County, Illinois, praying that the said boundary line above established between the lands acquired or to be acquired by the Commissioners, and the lands acquired or to be acquired by the Company, may be established and confirmed by the decree of said Court, either in entirety in one decree or in several decrees corresponding to the petitions or bills filed for that purpose; and they shall exercise all proper diligence and take all proper steps in the prosecution of such petition or petitions, or bill or bills, as may from time to time be necessary, as contemplated and required by an Act of the State of Illinois, approved May 2, 1907, entitled, "An Act authorizing Park Commissioners to acquire and improve submerged and shore lands for park purposes, providing for the payment therefor, and granting unto such Commissioners certain rights and powers, and to riparian owners certain rights and titles," and generally shall exert all reasonable efforts to the end that said boundary line as herein defined may be established and confirmed by the final judgment or judgments, decree or decrees, of said court, in the said proceeding or proceedings.

ARTICLE IV. Upon the establishment and confirmation by the final judgment or judgments and decree or decrees in said proceeding or proceedings of the said part of said dividing and boundary line above described as the permanent dividing and boundary line along and opposite said lands on the shore adjoining the said part of the said public waters, which, together with the riparian rights pertaining thereto are now owned by the Company, all of the riparian rights now held or owned by the Company, as the owner of said lands, and also all the right, title and interest of the Company in and to the part of the submerged, reclaimed, made and penetrating lands, and in and to the part of any piers, basins or projections situate, lying or being on or penetrating or projecting into said public waters beyond and on the easterly side of such part of said boundary line, shall vest in, be taken by, held and acquired by the said Commissioners, and in that event, the same are hereby vested in, transferred, assigned and conveyed to the said Commissioners for the purposes aforesaid; and upon such establishment and confirmation as aforesaid of the said part of said dividing and boundary line as the permanent dividing and boundary line along and opposite the said lands of the Company, the part of the said submerged, reclaimed, made and penetrating lands and the waters thereon, situate and being on the westerly side of said part of said boundary line, and all the right, title and interest in or pertaining thereto shall be taken, owned and used by the Company, in lieu of, and as compensation for, the release to the Commissioners of its said above described riparian and other rights and property, and in that event, the same are hereby vested in, transferred, assigned and conveyed to said Company. The said Company shall have and hold the fee simple title to any and all such lands and interests so vested in it, with the full right to fill in, improve, protect and use the same for railroad and other lawful purposes, and to sell and convey the same up to the lines so established, free from any adverse claim in any way arising out of any question as to where the shore line was at any time in the past or as to the title to any existing accretions. And upon the establishment and confirmation as aforesaid of the said part of the said dividing and boundary line as aforesaid, the said Company, as a part of the release of its right, title and interest in said part of such basins, piers or projections, and all other

property lying east of such boundary line, shall consent, and in the event of the establishment and confirmation as aforesaid of the said part of said dividing and boundary line as aforesaid, this instrument shall be effective as the consent of the Company, that the basin now located east of Twelfth Street extended may be closed and filled and the lands under the same reclaimed by said Commissioners, and the said Company will by quit claim deed convey to the Commissioners the following described property, to-wit:

A parcel of ground along the shore of Lake Michigan in Cook County, State of Illinois, described as follows:

Beginning at a point in the south line of Lake Park Place (formerly known as Park Row), in the City of Chicago, produced easterly, seven hundred and sixty-one (761) feet east of the west line of Michigan Avenue, extending thence southeasterly, making an angle of forty-five (45) degrees with a line parallel to the west line of Michigan Avenue seven hundred and seventy-eight (778) feet, more or less, to a point in the north line of the Illinois Central Railroad Company's Thirteenth Street Pier, thirteen hundred and twenty (1320) feet east of the west line of Michigan Avenue; thence east along said north line five hundred and thirty (530) feet, more or less, to east line of said pier; thence south along said east line two hundred and eighty-eight (288) feet, more or less, to the south line of said pier; thence west along said south line to an intersection with the said permanent boundary line above described in Article I, paragraph two, hereof, thence northwesterly along said permanent boundary line to the place of beginning.

The Company further undertakes to secure at the time said quitclaim deed is delivered, the release of its Refunding Mortgage, being the indenture dated November 1, 1908, by and between the Company and the Guaranty Trust Company of New York, so far as the said mortgage or indenture relates to or covers the property last above described, so to be conveyed by quitclaim deed, it being intended to be conveyed to said Commissioners as and for a site for a museum, to be erected either by said Commissioners or by the directors or trustees of such museum as may be authorized by said Commissioners, and as to said lands above described any conveyance to the Commissioners shall contain a dedication of said land to public use for museum purposes or to such other parkway purposes as said Commissioners may determine, and said Company specifically declares that it is not its intention that said land shall become attached to or become a part of Grant Park unless and until the said Commissioners shall, by ordinance or resolution, give evidence of their intention to attach said land to said park.

IT IS COVENANTED AND AGREED that upon the establishment and confirmation of any part of the said boundary line by the said Court, the part of said line so established and confirmed shall thereafter be the permanent dividing and boundary line to the extent so established and confirmed, and shall not be affected or changed thereafter either by accretions or erosions; and upon the final establishment of said boundary line through its entire length, as contemplated by this agreement, it shall thereafter be the permanent dividing and boundary line of the said lands so to be taken by the respective parties as aforesaid, between the termini of the said line.

ARTICLE V. The Company covenants and agrees that upon the final establishment and confirmation of the said boundary line along, opposite and through the lands on the shore adjoining the said part of the said public waters which together with the riparian rights pertaining thereto, are now owned by the Company, and the vesting in the Company of the title, as provided by the statute aforesaid, to the submerged lands along such part of the said boundary line, with the right to fill in and use the same for railroad purposes; and upon the operation by electricity of its tracks and terminals north of Twelfth Street in said City of Chicago, the Commissioners, subject to the conditions and restrictions herein provided, may construct and maintain viaducts or bridges over the land, rights of way and tracks of the Company on a line produced eastward on all the east and west streets abutting upon or crossing Michigan Avenue between and inclusive of Randolph Street and Harmon Place in said City; said viaducts or bridges may be of the full width of the respective streets on the line of which they are constructed. The superstructure of each such viaduct or bridge shall

be of metal or reinforced concrete and the lowest point of any such superstructure shall be not less than eighteen (18) feet in the clear above the level of the top of the railroad tracks as now existing at the east and west lines of the Company's right of way at such place or places, and the clearance or clearances of such bridges or viaducts shall in all other respects conform to the clearances of the bridges now existing. All the supports or piers of such viaducts or bridges shall be forty (40) feet apart between centers, requiring four (4) piers or supports in the two hundred (200) feet width of the right of way of the Company, and shall be set at uniform distances from the west side of the Company's right of way and parallel with the Company's tracks.

And the Commissioners may also, at such time, construct and maintain a covering not to exceed fifty (50) feet in width above and over the Company's right of way adjoining and along the west side thereof between Twelfth and Randolph Streets, and a covering not to exceed fifty (50) feet in width adjoining and along the east side of said right of way between Twelfth and Monroe Streets. There shall be a single line of piers or supports for such covering or coverings which shall be set at the uniform distance of forty (40) feet from the side of the Company's right of way along which such covering may extend or be attached, and such piers or supports shall be set between tracks so as to conform with the location of the piers or supports of the bridges or viaducts by this paragraph authorized. The extension of the said covering beyond said line of piers shall be by cantilever or other similar device. The said covering here intended shall have a clearance above the existing tracks of the Company to conform and correspond with that provided for the bridges or viaducts as hereinabove specified, and which at no point shall be less than eighteen (18) feet. The piers or supports above authorized for the said bridges or viaducts and covering shall not exceed the piers under the existing bridges in Grant Park in size or space occupied. The surface of the said covering may be used for such purposes as the Commissioners may desire, provided such use does not interfere with the use or operation of the Company's tracks and right of way.

IT IS UNDERSTOOD AND AGREED that none of the foregoing provisions in this Article contained shall be in force until the said tracks and terminals shall be operated by electricity, as above stated, except, however, that immediately upon the confirmation of the said boundary line along the shore lands now owned by the Company, and the vesting in the Company of the title to said submerged lands at such place or places as aforesaid, the Commissioners may construct and maintain a bridge or viaduct at each of the streets between Jackson Street and Hubbard Place, inclusive, of a width, if constructed at all of the said streets, not to exceed the width of the respective streets extended eastwardly; or, in lieu of the bridges or viaducts authorized at the said several streets between said Jackson Street and Hubbard Place, inclusive, the Commissioners may, at their election, construct and maintain a bridge or viaduct at each of any three or four of said last mentioned streets as they may elect, the total width of such streets, if so consolidated, not to exceed three hundred and thirty (330) feet, and no single bridge to be over one hundred and ten (110) feet in width. Said bridges shall be of the construction, clearance above the tracks of the Company, and with supports corresponding in size and location to the construction, clearance and supports as above provided for the viaducts and bridges to be constructed over the said Company's right of way in said Grant Park.

PROVIDED, HOWEVER, and the right and authority in this Article given the Commissioners is subject to the express condition, restriction and reservation, that no structure, covering, viaduct or bridge shall be constructed or maintained, or any such use made thereof by the Commissioners that will interfere with or prevent the Company's free use and operation of its said tracks for railroad purposes, excepting that the supports or piers mentioned may be located as above stated.

ARTICLE VI. Upon the establishment and confirmation by the final judgment or judgments and decree or decrees in said proceeding or proceedings of the said part of the said dividing and boundary line above described as the permanent dividing and boundary line along and opposite said lands on the shore adjoining the said part of the said public waters, which together with the riparian rights pertaining thereto, are now owned by the Company, except

through the said lands of the City of Chicago, and the vesting in the Company of the lands, rights and interests which it is above agreed shall be vested in it between the said easterly line of its present right of way and the said part of the said dividing and boundary line—the following covenants and agreements in this Article contained shall be in force, and the rights mentioned confirmed and established:

(1) The Commissioners shall have, and are hereby given the right, subject to the conditions and requirements herein contained and to the restrictions in this Section, to construct and maintain viaducts over the tracks, lands and right of way of said Company, *acquired or to be acquired hereunder*, in line with the projection eastward of such east and west streets as said Commissioners may select between Twenty-second Street and Forty-first Street in the said City of Chicago; provided, however, and it is agreed, that not more than four of such viaducts to each mile longitudinally with the right of way of said Company shall be constructed. The Commissioners shall also have, and are hereby given, the right to construct and maintain viaducts over the said tracks, lands and right of way of the Company in line with the projection eastward of Forty-first Street, Forty-third Street and Forty-seventh Street in said City. The Commissioners shall not construct any other viaducts over the tracks, lands and right of way of said Company between Twelfth Street and Fifty-first Street in said City than those authorized in this and the next paragraph, except with the consent of the Company. The superstructure of each of the viaducts herein authorized shall be of metal or reinforced concrete, and the lowest point of any such superstructure shall be not less than nineteen (19) feet in the clear above the level of the top of the railroad tracks as now existing or hereafter to be constructed. All of the supports or piers for such viaducts shall be not less than forty (40) feet apart between centers, and shall be set at uniform distances from the west side of the Company's right of way and parallel with the Company's tracks, and shall be so arranged as to provide a clear space sufficient for not less than three (3) tracks at any span, excepting, however, that at any place or places where the practical construction and operation of the Company's tracks requires a greater width or distance between the piers of any such viaduct or viaducts, such greater width or distance shall be provided by the Commissioners, not in any case, however, to exceed one hundred (100) feet. The piers or supports for such viaduct or viaducts shall not exceed in size or space occupied those authorized for the bridges to be constructed under Article V hereof. The Commissioners agree that the viaducts herein authorized shall be so constructed as not to interfere with or prevent the construction or use of two double track elevated connecting tracks, one set extending from a connection with what is known as the St. Charles Air Line, at or near Sixteenth Street, over the main tracks and side tracks of said Company as they now exist or as they may be hereafter reconstructed in connection with the reconstructed station south of Twelfth Street, with a southeasterly curve to its tracks and yards constructed or to be constructed; and one set extending from a connection with what is known as the Chicago Junction Railway on or near Forty-first Street, over the existing main tracks of said Company, with a southeasterly curve to its tracks and yards constructed or to be constructed. The viaducts constructed over any part of said elevated connecting tracks shall have a clearance over such elevated tracks of not less than nineteen (19) feet.

(2) That in addition to the said viaducts provided to be constructed in the last preceding paragraph, the Commissioners shall have, and are hereby given the right, subject to the conditions and requirements hereinbefore contained and to the restrictions in this Section, to construct and thereafter maintain a boulevard across the right of way, lands and tracks of the Company by a viaduct to be constructed over such tracks, right of way and lands in line with the projection northward of South Park Avenue or eastward of Twenty-second Street in said City of Chicago. The superstructure of such viaduct shall be of metal and the lowest point thereof shall be not less than nineteen (19) feet in the clear above the level of the top of the present railroad tracks; except, however, and it is expressly agreed, that such viaduct shall be so elevated as to cross with a clearance of not less than nineteen (19) feet the double track connection herein proposed to be constructed from said St. Charles Air Line tracks near Sixteenth



Street. The piers or supports for such viaduct shall be so arranged as to provide a clear space sufficient for not less than three (3) tracks at any span, and shall be constructed parallel to the railroad tracks, except where otherwise specially agreed by the parties hereto, and in size and location shall conform, as far as practicable, to the requirements for the other viaducts by this contract authorized.

ARTICLE VII. Within five (5) years from the date of this contract the Commissioners shall procure title to and hold only for park purposes the tract of land described as follows, to-wit:

Lots 2 to 12, both inclusive, of Johnston and Laffin's Subdivision of Lots 1, 2, 3 and part of Lot 4, in Block 23, in fractional Section 15, Addition to Chicago, all being in the City of Chicago, County of Cook and State of Illinois; and upon the acquisition of the said lands the Company shall, with all reasonable dispatch, remove its Twelfth Street Station and office building to land south of a line parallel with and eighty-five (85) feet south of the south line of Twelfth Street as now established east of Michigan Avenue in said City, and, subject to the restrictions and reservations herein provided, shall dedicate to the Commissioners only for park purposes the real estate bounded and described as follows, to-wit:

Lots 1, 13 and 14, of Johnston and Laffin's Subdivision of Lots 1, 2, 3 and part of Lot 4, in Block 23, in fractional Section 15, Addition to Chicago;

Also, all that strip of land 30 feet wide bounded on the west by said lots and on the east by a line 400 feet east of the west line of Michigan Avenue (being the west line of the Illinois Central Railroad Right of Way), and extending 200 feet south from the south line of Park Row to the north line of Twelfth Street; all being in the City of Chicago, County of Cook and State of Illinois;

such dedication, however, to contain apt conditions and restrictions whereby no building or structure shall be erected upon either the said last described land dedicated as aforesaid, or upon the next previously described as to be acquired by the Commissioners. The Company shall deliver to the Commissioners possession of the said land, to be dedicated by it within five (5) years after the signing of this instrument, provided that they shall be allowed three (3) years after the acquisition by the Commissioners of the lands to be procured by them which might, in that contingency, extend the period beyond five (5) years.

Upon the removal of the said station and office building, the Company shall dedicate to the said Commissioners for boulevard purposes, the strip of ground bounded on the west by the east line of Michigan Avenue, on the north by the south line of Twelfth Street as now established east of Michigan Avenue, on the east by the west line of Indiana Avenue, and on the south by a line drawn parallel with and eighty-five (85) feet south of the said south line of Twelfth Street, except the part of said strip now occupied by the north and south alley now established across the same, and as to the part of said alley in said strip the Company consents to its use for such purposes, and the Commissioners may construct and perpetually maintain on said strip of ground an approach to the viaduct hereinafter described. The Company shall have and hereby reserves the free use of said boulevard and approach for itself and its patrons, and its and their conveyances in going to and from its station as relocated, not inconsistent with boulevard purposes, it being understood that there shall be provided by the Company over said boulevard permanent means of access to and egress from the said proposed station of the Company, as relocated.

IT IS UNDERSTOOD AND AGREED that the Company shall have, and it hereby reserves the right to make and maintain at its own expense such use or uses for railroad purposes under the surface of the property last described, and of the said approach constructed and maintained thereon, as can be made by it without interference with the uses above given to the said Commissioners, or the appearance of the said boulevard or park.

The Commissioners may also, upon the removal of said station and office building, as above provided, and under the conditions and subject to the restrictions hereinbefore and herein stated, construct and maintain a viaduct over the tracks, right of way and lands of said Company in a line with the projection eastward of said Twelfth Street, with a width of one hundred and eighteen (118)

feet, the northerly side of said viaduct to be on a line with the north line of Twelfth Street, as now maintained, extended eastward. The superstructure of said viaduct shall be constructed of metal or reinforced concrete, and the lowest point thereof shall be not less than eighteen (18) feet above the level of the present tracks of said Company, except that the clearance of said viaduct over the Company's approach to what is known as the St. Charles Air Line shall be not less than seventeen (17) feet. The supports or piers of said viaducts shall be set parallel with the tracks and so spaced as to correspond in size and in location with the piers or supports of the bridges or viaducts north of Twelfth Street, and of the covering hereinbefore authorized there, but such piers shall be so arranged as to provide a clear space sufficient for not less than three (3) tracks at any span.

ARTICLE VIII. In the event that this contract in so far as it refers to the boundary lines to be established along and opposite the property now owned by the Company shall not be confirmed by the final judgments or decrees in the said proceedings, then the Commissioners shall be under no obligation to acquire the lands north of Twelfth Street, south of Park Row, and west of the lands of the Company hereinbefore described, and the Company shall be under no obligation to dedicate or convey to the Commissioners its lands north of Twelfth Street, south of Park Row, and west of its tracks hereinbefore described, or to dedicate the lands hereinbefore described abutting on Twelfth Street, for boulevard or other purposes, and the right to construct and maintain a viaduct over its right of way at Twelfth Street upon a continuation of the line of Twelfth Street produced shall cease and determine, but all of the other provisions of this contract except the preceding Article shall nevertheless remain binding and of full effect.

ARTICLE IX. The parties hereto hereby mutually covenant and agree that to the extent of their lawful powers, they will do, execute, acknowledge and deliver, or will cause to be done, executed, acknowledged and delivered, all and every such further acts, deeds, transfers and assurances, and that they will from time to time, in addition thereto, in all lawful ways exercise such powers as they may possess, and cause to be done and performed such things as may be requisite or necessary for the better assuring, conveying and confirming in each of the parties hereto, respectively, all and singular the premises, estates and property included in this Instrument and intended to be vested in the parties hereto respectively.

ARTICLE X. This agreement shall be conditional upon the passage of an ordinance by the City of Chicago, in substance consenting to the use for railroad purposes of the penetrating and submerged lands situated east of the present tracks of the Company and west of the proposed boundary line throughout its entire length (except the aforesaid land now occupied and used by the City of Chicago for its Thirty-ninth Street Pumping Station), and to the location of the tracks of the Company thereon.

IN WITNESS WHEREOF, the said Commissioners have, by authority of an ordinance duly passed on the 11th day of December, A. D. 1911, caused this agreement to be duly executed by the President and Secretary of said SOUTH PARK COMMISSIONERS, and the corporate seal of said SOUTH PARK COMMISSIONERS to be hereunto affixed, and the said Company in accordance with the resolution of its Board of Directors, duly adopted on the 8th day of December, A. D. 1911, has caused this agreement to be duly executed by the President and Secretary of said Company, and its corporate seal to be hereunto affixed, the day and year first above written.

SOUTH PARK COMMISSIONERS,  
By JOHN BARTON PAYNE,  
*President.*

[SEAL]

ATTEST:  
J. F. NEIL,  
*Secretary.*

ILLINOIS CENTRAL RAILROAD COMPANY,  
By C. H. MARKHAM,  
*President.*

[SEAL]

ATTEST:  
D. R. BURBANK,  
*Secretary."*

AND WHEREAS in and by Article X of said contract it is provided that said contract shall be conditional upon the passage of an ordinance by the City of Chicago, consenting to the use for railroad purposes of the penetrating and submerged lands situated east of the present tracks of said Illinois Central Railroad Company and west of the boundary line described in said contract throughout its entire length (except the land now occupied and used by the City of Chicago for its Thirty-ninth Street Pumping Station) and to the location of the tracks of said Company thereon, and

WHEREAS, it is desired by said Illinois Central Railroad Company and said South Park Commissioners that said contract shall be ratified by the City of Chicago, and said City of Chicago is willing to ratify said contract and to perform the obligations on its part hereinafter defined, in consideration, however, of the acceptance of this ordinance and the terms and conditions hereinafter contained by said Illinois Central Railroad Company and said South Park Commissioners.

*Be it ordained by the City Council of the City of Chicago:*

#### RATIFICATION OF THE CONTRACT.

SECTION I. That the City of Chicago hereby ratifies, approves and confirms the said contract hereinabove set forth in the preamble of this ordinance, and gives its consent to the carrying out of the same, and this ordinance shall be and constitute whatever consent may be required by the said contract in order to make the said contract binding and of full effect.

#### GRANTS BY THE CITY TO THE SOUTH PARK COMMISSIONERS.

SECTION II. That the City of Chicago hereby grants, conveys, transfers, surrenders and relinquishes to the South Park Commissioners, for museum and other park purposes, all of its riparian rights in and to certain lands and the submerged lands located and lying as follows, namely, the basin south of the south line of Lake Park Place extended east, east of the east line of the Illinois Central Railroad Company's waylands and north of the north line of said Company's Thirteenth Street pier, and extending eastwardly so far as the City of Chicago has the right to convey. Said City of Chicago also grants, conveys, transfers, surrenders and relinquishes to said South Park Commissioners, for museum and other park purposes, all other title, right or interest which said City of Chicago has in and to said lands and submerged lands, and consents that said South Park Commissioners may reclaim and fill in all of said submerged lands and make use of the same as a site for the Field Museum of Natural History, or other museum, or for any other park purposes.

SECTION III. That the City of Chicago hereby grants, conveys, transfers, surrenders, and relinquishes to the South Park Commissioners all riparian rights appurtenant to the tract of land known as the Thirty-ninth Street Pumping Station, the same being situated east of the Illinois Central Railroad Company's right of way, and between Thirty-eighth and Thirty-ninth Streets extended east, and near Thirty-ninth Street extended east, in said City of Chicago, being the land conveyed to the City of Chicago by deed from the Illinois Central Railroad Company, dated August 17, 1898, which is hereby referred to and made a part hereof, and all lands made and reclaimed for said Thirty-ninth Street Pumping Station by said City of Chicago.

SECTION IV. That all that portion of Lake Park Place, sometimes called Park Row, extending from the east line of Michigan Avenue to the right of way of the Illinois Central Railroad Company shall be and the same is hereby vacated. Such vacation shall be effective only when the South Park Commissioners shall acquire all the land between Lake Park Place aforesaid and Twelfth Street and between Michigan Avenue and the waylands of the Illinois Central Railroad Company for the purpose of a park or boulevard. Said portion of Lake Park Place, in the event of the acquisition of said land by said South Park Commissioners, will no longer be required for public uses and purposes, and the public interest will be subserved by its vacation. The said South Park Commissioners shall and will on its part save the City of Chicago harmless against any and

all damages, costs and expenses, if any, on account of such vacation, and shall pay all such damages and costs as shall be legally established by any property owner or owners on account of such vacation. Said South Park Commissioners shall and will, within ninety days from and after the time limited for the acceptance of this ordinance, file in the office of the Recorder of Deeds of Cook County, Illinois, a certified copy of this ordinance.

SECTION V. That consent is hereby given and granted to the South Park Commissioners to take, regulate, improve, control and govern, as parks and boulevards under its jurisdiction are regulated, improved, controlled and governed, all that part of east Twelfth Street lying between the east line of Michigan Avenue and the west line of the right of way of the Illinois Central Railroad Company. Nothing in this ordinance contained, however, shall be construed as a waiver or relinquishment by the City of Chicago of any of its rights or powers relating to the laying of water mains and pipes, or the building or repairing of sewers or drains, and the laying of electric or other wires or conduits therefor, now or hereafter controlled by said City, or the regulating of openings for the same, or the making of other underground improvements in said east Twelfth Street by said City. The consent hereby granted to said South Park Commissioners to take, regulate, improve, control and govern the portion of east Twelfth Street in this section described is upon the condition that said South Park Commissioners shall within ninety days after the acceptance of this ordinance elect to take and take said portion of east Twelfth Street.

#### GRANTS BY THE CITY OF CHICAGO TO THE ILLINOIS CENTRAL RAILROAD COMPANY.

SECTION VI. That permission and authority are hereby granted to the Illinois Central Railroad Company, its lessees, licensees, successors and assigns, to construct, maintain, use and operate from time to time a railroad passenger station and terminal, with all the facilities and appurtenances necessary thereto, as may be found by said Company, its lessees, licensees, successors and assigns, desirable and convenient, within the space or area bounded as follows: on the north by a line eighty-three (83) feet south of and parallel to the south line of Twelfth Street as at present existing; on the west by the east line of Michigan Avenue; on the south by Thirteenth Street; and on the east by the west line of the waylands of said Company and including those portions of streets and alleys described in the following section, including the right to construct and use thereon all tracks, buildings, structures and appliances of every kind essential or convenient for such passenger station and terminal as herein authorized and provided.

SECTION VII. That the portion of Indiana Avenue described as follows: Extending from the north line of Thirteenth Street to the south line of Twelfth Street, and also that portion of Indiana Avenue at the intersection of Thirteenth Street in the shape of a right angled triangle bounded on the east by the east line of Indiana Avenue, bounded on the north by the north line of Thirteenth Street produced easterly across Indiana Avenue, bounded on the west by a line drawn from the northwest corner of Indiana Avenue and Thirteenth Street, to the point where the south line of Thirteenth Street produced easterly intersects the east line of Indiana Avenue; and also that portion of the alley running north and south between Michigan Avenue and Indiana Avenue extending one hundred and eighty-three (183) feet south of the south line of East Twelfth Street, are both hereby vacated. Said portion of said street and said portion of said alley are no longer required for public uses and purposes, and the public interest will be subserved by their vacation.

The Illinois Central Railroad Company shall and will on its part protect and save the City of Chicago harmless against any and all damages, costs and expenses on account of such vacation, if any, and shall pay all such damages and costs as shall be legally established by any property owner or owners on account of such vacation. The vacation of said portion of Indiana Avenue and said portion of said alley shall be effective only when the Illinois Central Railroad Company shall acquire the right to use for railroad or depot purposes all the land abutting on the west side of Indiana Avenue between Twelfth and Thirteenth Streets.

SECTION VIII. That consent and permission are hereby granted to said Illinois Central Railroad Company to make from time to time all such changes as may be necessary, convenient or desirable in the alignment, rearrangement and reconstruction of the railroad tracks known as the St. Charles Air Line in order to enable them to be hereafter reconstructed as from time to time may be desired, also with a southeasterly curve extending to the waylands acquired or to be acquired by the Illinois Central Railroad Company.

SECTION IX. That the City of Chicago hereby consents to the use, for railroad purposes, of the penetrating and submerged lands situated east of the present tracks of the Company and west of the proposed boundary line (described in the said contract dated December 11, 1911, between the South Park Commissioners and the Illinois Central Railroad Company, and heretofore set out in the copy of the said contract in the first recital of this ordinance), throughout its entire length, and to the location of the tracks of the Company thereon. Provided, however, that, subject to existing leases if any, that part of the submerged and penetrating, and made lands if any, in question, lying west of the proposed boundary line and east of the present 200 foot right of way of the Illinois Central Railroad Company between Thirty-first and Fifty-first Streets, shall not be used for any railroad purpose other than tracks, switches, turnouts and passenger stations, without the express consent of the City Council of the City of Chicago, provided further, however, that the City of Chicago shall first grant and convey to the South Park Commissioners all that tract of land, together with all improvements thereon situated, known as the Thirty-ninth Street Pumping Station and more specifically described in Section III of this ordinance, whenever the South Park Commissioners shall provide for the City of Chicago a Pumping Station and site therefor, for the same purpose, acceptable to the City of Chicago and the Sanitary District, and the last paragraph of Article I of said contract dated December 11, 1911, shall be carried out in reference to the division of the land and the expense as therein provided. The Railroad Company shall have the right to locate its tracks upon the part of the said pumping station site to which it shall be entitled under this agreement.

#### OBLIGATIONS OF THE ILLINOIS CENTRAL RAILROAD COMPANY.

SECTION X. That in the event that the City of Chicago shall establish a Harbor District lying between the north line of Sixteenth Street extended east and the north line of Twenty-second Street extended east, the Illinois Central Railroad Company consents that the City of Chicago may, at its own expense, construct two viaducts over the lands and tracks of the Illinois Central Railroad Company acquired or to be acquired, in order to obtain access to the said Harbor, provided that the said viaducts shall be subject to the same provisions as those contained in the said contract dated December 11, 1911, in regard to the proposed viaduct to be constructed by the South Park Commissioners at Twenty-second Street. One of these viaducts shall be parallel with Sixteenth Street if extended easterly and adjacent to the line of the St. Charles Air Line. The other shall be parallel with Forty-first Street if extended easterly and adjacent to the line of the Belt Railroad tracks.

SECTION XI. That if the work of filling in the submerged lands to be acquired by the Illinois Central Railroad Company under the said contract shall not be done concurrently with the work of filling to be done by the South Park Commissioners, then the said Company shall make a fill on the easterly boundary of the said submerged lands to be acquired by it concurrently with the filling being done by the South Park Commissioners so that the work of the latter may proceed independently of that of said Company.

#### GRANTS AND UNDERTAKINGS BY THE SOUTH PARK COMMISSIONERS.

SECTION XII. That all riparian rights in and to the shore of Lake Michigan from the north line of Sixteenth Street extended east to the north line of Twenty-second Street extended east and the submerged lands adjacent to said shore not filled in or to be filled in by the South Park Commissioners shall, so far as the South Park Commissioners is concerned, belong to the City of Chicago in per-

petuity, to be used by said City, however, only in the event that such submerged lands may be required by said City for harbor purposes.

SECTION XIII. That the City of Chicago may enter across and over any lands which may be owned or acquired by said South Park Commissioners with not more than six (6) tracks on or adjacent to one of the following streets: Sixteenth Street, Eighteenth Street, Nineteenth Street, Twentieth Street or Twenty-first Street; and may also use and occupy a right of way from Forty-first Street to Sixteenth Street for not more than four (4) tracks located immediately east of the right of way to be acquired in accordance with said contract dated December 11, 1911, of the Illinois Central Railroad Company; it being further understood that the Commissioners will grant to the City free and suitable access to said harbor when established.

SECTION XIV. That said South Park Commissioners shall arrange as soon as may be for the construction and maintenance of a public pier for passenger and excursion boats at Twenty-second Street accessible by bridge over or tunnels under the tracks of the Illinois Central Railroad Company. Said South Park Commissioners shall also install and maintain two public bathing beaches with adequate buildings and facilities between Twenty-second Street and Jackson Park, said beaches to be accessible by tunnels under or bridges over the tracks of the Illinois Central Railroad Company.

SECTION XV. That said South Park Commissioners whenever the City of Chicago turns over South Park Avenue to said South Park Commissioners for boulevard purposes, shall cause said South Park Avenue to be extended without expense to the City of Chicago northward from Twenty-second Street across the tracks of the Illinois Central Railroad Company and shall cause a suitable viaduct to be built connecting said South Park Avenue as extended with the park property on the east side of the tracks of the Illinois Central Railroad Company.

#### RESERVATION OF THE POLICE POWER AND THE POWER OF EMINENT DOMAIN IN THE CITY OF CHICAGO AND THE SOUTH PARK COMMISSIONERS.

SECTION XVI. That nothing in this ordinance contained shall be construed to modify, limit or abridge in any wise the police powers of the City of Chicago, or of the South Park Commissioners, under and by virtue of the laws of the State of Illinois, or the right of the City of Chicago and the South Park Commissioners to pass and enforce all needful and proper ordinances in the exercise of said police powers vested in them respectively; nor shall anything in this ordinance contained in any wise modify, limit or abridge the powers of the City of Chicago or of the South Park Commissioners, from time to time as either of the said municipalities may elect, to exercise the right of eminent domain under the laws of this State.

SECTION XVII. The words "penetrating lands" refer to the lands mentioned in the third recital of said contract of December 11, 1911.

#### PROVISION FOR ACCEPTANCE.

SECTION XVIII. This ordinance shall take effect and be in force from and after its passage, provided that said Illinois Central Railroad Company and said South Park Commissioners shall each within ninety (90) days after the passage hereof file its acceptance of this ordinance in the office of the City Clerk of the City of Chicago.

## APPENDIX G.

1. OPINION OF CORPORATION COUNSEL ON PROPOSED ORDINANCE CONSIDERED BY COMMITTEE OF CITY COUNCIL ON HARBORS, WHARVES AND BRIDGES, DECEMBER 23, 1911, RATIFYING AGREEMENT OF DECEMBER 11, 1911, BETWEEN THE SOUTH PARK COMMISSIONERS AND THE ILLINOIS CENTRAL RAILROAD COMPANY;
2. NEW ORDINANCE PREPARED BY CORPORATION COUNSEL AND TRANSMITTED TO THE COMMITTEE WITH SAID OPINION.

## 1. OPINION.

JANUARY 16, 1912.

HON. HARRY E. LITTLE,

*Chairman, Committee on Harbors, Wharves and Bridges.*

DEAR SIR:

At the meeting of your committee on December 23, 1911, the question of ratifying the proposed agreement of December 11, 1911, entered into between the South Park Commissioners and the Illinois Central Railroad Company was under discussion. It was proposed to ratify said agreement by the adoption of an ordinance by the City Council, reciting said agreement and containing certain other provisions. On motion of Alderman Geiger it was ordered that the law department furnish an opinion explaining the said contract or agreement, the proposed pending litigation for the reclamation of certain lands bordering on Lake Michigan, and the effect of said contract and proposed ordinance on said litigation.

We are also in receipt of your letter of the 8th inst. in which you enumerate specifically the points you wish covered by our opinion in response to the original reference of the subject matter to this department. We will discuss these specific points without taking them up according to the subdivisions in your letter.

Since your meeting of December 23, 1911, there have been numerous conferences participated in by counsel representing the Illinois Central Railroad Company, the South Park Commissioners and the City. In some of these conferences Mayor Harrison, Mr. Hutchinson of the South Park Commissioners, Alderman Long and yourself were present. Assistant Corporation Counsel Skinner, who has had charge of the reclamation suits, or Mr. Hoyne, has been present at all the conferences and both at most of them. The object of these conferences has been to draft an ordinance which would embody the policy or agreement settled upon at the earlier conferences between Mayor Harrison and Alderman Long representing the City, Judge Payne and Mr. Redfield representing the South Park Commissioners, and Mr. Markham or Mr. Lee representing the Illinois Central Railroad Company, and which would also properly safeguard the interests of the City of Chicago. On the 5th inst., two final meetings were had with reference to this project in the office of the Corporation Counsel, at which Corporation Counsel Sexton was also present. No agreement was reached as a result of these final conferences. Since that time we have been engaged in an attempt to draft an ordinance which will be satisfactory to the City so far as the law department is concerned and at the same time will adhere to the lines of the tentative agreement reached.

We submit the following for the consideration of your committee:

The proposed ordinance as presented to your committee is unsatisfactory because it contains a blanket ratification of the agreement between the South Park Commissioners and the Illinois Central Railroad Company, to which agreement the City of Chicago is not a party. The City of Chicago took no part in the preparation of said agreement.

Many of its sections are ambiguous and capable of a construction which would give to the Illinois Central Railroad Company valuable rights not contemplated by the preliminary or tentative agreement made between the Mayor, South Park Commissioners and representatives of said Company.

By the terms of Section 8 the Illinois Central Railroad Company would have authority to re-arrange the tracks of the St. Charles Air Line so that it would run in a southeasterly direction from Michigan Avenue near Sixteenth Street to some southerly point, for example, Thirty-ninth Street, crossing all the intervening streets and alleys. Counsel for the Illinois Central Railroad Company concedes that under said proposed ordinance the St. Charles Air Line would have authority to construct and maintain two additional tracks from the Illinois Central right of way adjoining and paralleling the present tracks of the St. Charles Air Line extending westerly to the western limits of the present tracks of said St. Charles Air Line, and the City would not be in a position to object that the St. Charles Air Line had not the consent of the city to construct these two additional tracks across streets and alleys.

Other sections are also ambiguous and require correction, but our basic objection to the proposed ordinance is the blanket ratification of the contract of December 11, 1911, found in Section 1 thereof.

We submit herewith our draft of an ordinance which we think fairly embodies the tentative agreement made by the representatives of the City of Chicago, the South Park Commissioners and the Illinois Central Railroad Company prior to the drafting of the said contract of December 11, 1911.

Before discussing the new ordinance we wish to call the attention of your committee to the Act of May 2, 1907, entitled,

"An Act authorizing park commissioners to acquire and improve submerged and shore lands for park purposes, providing for the payment therefor and granting unto such commissioners certain rights and powers and to riparian owners certain rights and titles."

Section 2 of the Act directs the park commissioners in all cases where they have acquired or contracted to acquire "the riparian rights of the owners of any lands along the shore adjoining such submerged lands and shall have agreed upon the dividing line aforesaid," to file bills in chancery in the Circuit Court of the county in which the lands are situated, praying that the boundary line agreed upon under any such contracts "may be established and confirmed by the decree of said court." Section 2 further provides that the court, if satisfied that the rights and interests of the public have been duly conserved by the agreement made, shall confirm said agreement and establish such boundary line which shall thereafter be the permanent dividing and boundary line of said lands and shall not be affected or changed thereafter either by accretions or erosions; that "the owners of said shore lands are granted by the State of Illinois the title to the submerged lands lying between said boundary line when so established and the shore adjacent thereto, and they shall have the right to fill in, improve, protect, use for all lawful purposes, sell and convey said submerged lands up to the line so established free from any adverse claim in any way arising out of any question as to where the shore line was at any time in the past or as to the title to any existing accretions."

It will be seen from the language quoted from said Act of 1907 that if the contract entered into between the South Park Commissioners and the Illinois Central Railroad Company is confirmed by decree of the Circuit Court, the City of Chicago is without power in the premises and that the title of the said company to all of the lands now in dispute and the subject of pending litigation instituted by the State and prosecuted by the Attorney General with the assistance of his local special counsel and the city law department, will be established and confirmed for all time at least so far as the City of Chicago is concerned.

The location and direction of the shore line of Lake Michigan in 1852 is shown by a map prepared by the title expert of the map department, based on



surveys along the lake shore. This map not only shows the original shore line and that much of the Illinois Central Railroad Company's present right of way is on land east of said shore line, but also precisely what new land may be made by filling by the said company under the proposed agreement and ordinance.

Turning now to the new ordinance submitted herewith, we call attention to the main distinction between it and said proposed ordinance heretofore submitted to your committee; that is, that there is no ratification of the contract of December 11, 1911, nor reference thereto except the reference found in the preamble of said new ordinance.

Sections 1, 2, 3 and 4 are substantially the same as Sections 2, 3, 4 and 5, respectively, of said proposed ordinance and follow the corresponding articles in the agreement between the South Park Commissioners and the Illinois Central Railroad Company. By Section 5 of the new ordinance the city expressly consents to the filling in, use and occupation of the submerged lands described in Section 9 of the ordinance. This section is inserted in the ordinance at the request of counsel for said company, although as indicated above, we do not feel, in view of the powers given to the South Park Commissioners by the Act of 1907 that such consent of the City of Chicago is necessary except as an indication that the city is in sympathy with the proposed project and will not seek to hinder its consummation. The necessity for Section 5 is said to arise from the elimination of Section 1 of the proposed ordinance, which contained a general ratification of the contract of December 11, 1911.

Sections 6 and 7 of the new ordinance are substantially the same as the like numbered sections of the proposed ordinance. These sections relate to the construction of a passenger station and terminal and provide for the vacation of portions of certain streets and alleys.

Section 8 of the new ordinance authorizes the Illinois Central Railroad Company to change the location of the existing bridge of the St. Charles Air Line over Indiana Avenue by moving it not to exceed 150 feet in either direction and to construct an additional connection from the St. Charles Air Line with a southeasterly curve extending across Indiana Avenue and the alley therein mentioned and also to the building of bridges across said avenue and street for such connection.

Section 9 is the most important section in the new ordinance. The modifications suggested by this department, yourself and Alderman Long have not been accepted by counsel for the Illinois Central Railroad Company. So far as the description of the land to be acquired by said company is concerned, the section agrees with and adopts the boundary line provided for in the contract of December 11, 1911, and the description of the land to be obtained meets with the tentative agreement between all the parties prior to the drafting of said contract. The map prepared by the title expert of the map department above referred to shows that under the description contained in Section 9 the company will obtain approximately 42 acres of land and 118 acres of water which it may fill in and use for the purposes mentioned in said ordinance. This map shows the area of water which the South Park Commissioners will obtain for museum purposes when the same has been filled in. In consideration of these grants to the Illinois Central Railroad Company the public as represented by the South Park Commissioners, and the City of Chicago, will deprive the Illinois Central Railroad Company of all riparian rights claimed by it along the lake shore as shown by said map, the land on which the present Illinois Central passenger station stands and other valuable rights.

It will be observed that Section 9 contains a limitation on the uses to which the Illinois Central Railroad Company may devote the newly acquired land lying between Thirty-first and Fifty-first Streets. It is provided that the company may use the newly acquired land between the points mentioned only for tracks, switches, turnouts and passenger stations unless it obtains the express consent of the City of Chicago to its use for other railroad purposes. It is thought that such a limitation is essential in order to prevent the railroad company from constructing warehouses, freight depots, round houses and other structures of a more or less objectionable character on the land bordering on the adjacent residence district. The limitation contained in said Section 9 also includes the pres-

ent 200 foot right of way of the Illinois Central Railroad Company and in this respect we understand is not satisfactory to the company. Its counsel has also vigorously insisted that this restriction and limitation *be made contingent upon the conveyance by the City of Chicago* of the site of the Thirty-ninth Street Pumping Station. The effect of such provision would be that *until such conveyance was made* the railroad company would be free to devote the newly acquired land to other purposes. It has been pointed out that said company might move its tracks from its present right of way east to the newly acquired land and then devote its present right of way to warehouses, freight depots, round houses, grain elevators, etc., or to other manufacturing and commercial purposes.

The important legal question that arises in connection with Section 9 or one similar thereto is, whether the City of Chicago can by ordinance restrict the Illinois Central Railroad Company to certain or particular uses of the newly acquired land in view of the broad powers above referred to given to the South Park Commissioners by the Act of 1907. Under the contract of December 11, 1911, the South Park Commissioners agree with the Illinois Central Railroad Company that the railroad company may use the newly acquired land *for any lawful purpose*, and this agreement, taken in connection with Section 2 of the Act of 1907 would authorize the said company to construct warehouses, freight depots, factories, grain elevators, flat buildings, hotels or other buildings devoted to a lawful use, or to sell and convey said newly acquired land to other persons or corporations to be used for commercial or other lawful purposes.

It is our opinion, however, that inasmuch as the Illinois Central Railroad Company under its charter must obtain the consent of the City of Chicago to locate its tracks within the limits of the city, and inasmuch, further, as the proposed ordinance consents to the location of the tracks of the company across certain streets and alleys and further vacates certain streets and alleys and provides for the relocation and construction of certain bridges, there is ample consideration for the limitation placed on the use of the land of said company by Section 9, and that said company having accepted the benefits of the ordinance would not be permitted to reject its obligations.

Section 9 of the new ordinance accordingly expressly recites that the consent, permission and authority and the vacations provided for in the various sections of said ordinance are made the consideration for the restrictions and limitations set forth in Section 9 and for all the other undertakings, obligations and benefits in said ordinance contained to be done or performed by said company.

Section 10 relates to the construction of two viaducts at certain points named.

Section 11 deals with the work of filling in the submerged land to be acquired by the Illinois Central Railroad Company and substantially agrees with Section 11 of the proposed ordinance.

Section 12 provides for the city's acquisition of riparian rights if they are needed for the purposes of a harbor between Sixteenth and Twenty-second Streets. We understand it is not satisfactory to the Illinois Central Railroad Company.

Section 13 is the same as Section 13 of the proposed ordinance, but has been modified by adding the words "by viaduct" in the second line after the words "across and over", and by providing at the close of the section that the expense of constructing the railroad tracks and viaducts referred to in said section shall be borne by the city.

Section 14 is the same as Section 14 of the proposed ordinance, but has been modified by providing that the Illinois Central Railroad Company by its acceptance of the ordinance consents to the construction and maintenance of tunnels and viaducts as therein provided, but said company may elect whether such crossing or crossings shall be by viaducts or tunnels, and that the city shall cross by viaducts or tunnels according to the company's election as to which method it prefers.

Section 15 is substantially the same as in the proposed ordinance except that the word "northward" has been stricken out, but no change has thereby been made in the meaning or effect of the section.

Section 16 contains a new clause providing that none of the city's rights under existing laws or ordinances are waived or impaired.

We have kept in mind in the foregoing discussion that this department has nothing to do with the wisdom or policy of the proposed ordinance, which is a subject committed to the Mayor and City Council. In framing this ordinance we have endeavored to embody what we understand to be the tentative agreement between the Illinois Central Railroad Company, the South Park Commissioners and the City of Chicago as represented by the Mayor, the chairman of your committee and the chairman of your sub-committee.

Yours very truly,

JAMES G. SKINNER,  
*Assistant Corporation Counsel.*  
 MACLAY HOYNE,  
*First Assistant Corporation Counsel.*

APPROVED:

WM. H. SEXTON,  
*Corporation Counsel.*

## 2. NEW ORDINANCE.

PREPARED BY CORPORATION COUNSEL.

WHEREAS, on December 11, 1911, the South Park Commissioners, a municipal corporation, entered into a certain contract with the Illinois Central Railroad Company, a corporation, in respect to certain lands adjoining and under the waters of Lake Michigan, making provision for the location of the Field Museum of Natural History, and for other purposes, and the City of Chicago is willing to aid in the carrying out of the said contract to the extent hereinafter set forth,

*Be it ordained by the City Council of the City of Chicago:*

SECTION 1. That the City of Chicago hereby grants, conveys, transfers, surrenders and relinquishes to the South Park Commissioners, for museum and other park purposes, all of its riparian rights in the submerged lands located and lying as follows, namely, the basin south of the south line of Lake Park Place, extended east, east of the east line of the Illinois Central Railroad Company's waylands and north of the north line of said company's Thirteenth Street pier, and extending eastwardly so far as the City of Chicago has the right to convey. Said City of Chicago also grants, conveys, transfers, surrenders and relinquishes to said South Park Commissioners, for museum and other park purposes, all other title, right or interest which said City of Chicago has in and to said lands and submerged lands, and consents that said South Park Commissioners may reclaim and fill in all of said submerged lands and make use of the same as a site for the Field Museum of Natural History, or other museum, or for any other park purposes.

SECTION II. That the City of Chicago hereby grants, conveys, transfers, surrenders and relinquishes to the South Park Commissioners all riparian rights appurtenant to the tract of land known as the Thirty-ninth Street Pumping Station, the same being situated east of the Illinois Central Railroad Company's right of way, and between Thirty-eighth and Thirty-ninth Streets extended east, and near Thirty-ninth Street extended east, in said City of Chicago, being the land conveyed to the City of Chicago by deed from the Illinois Central Railroad Company, dated August 17, 1898, which for purposes of description is hereby referred to and made a part hereof, and all lands made and reclaimed for said Thirty-ninth Street Pumping Station by said City of Chicago.

SECTION III. That all that portion of Lake Park Place, sometimes called Park Row, extending from the east line of Michigan Avenue to the right of way of the Illinois Central Railroad Company, and all alleys in Block Twenty-three (23) in fractional Section Fifteen (15), Township Thirty-nine (39) north, Range Fourteen (14), east of the third principal meridian, shall be and the same are hereby vacated. Such vacations shall be effective only when the South Park Commissioners shall acquire all the land between Lake Park Place aforesaid and Twelfth Street and between Michigan Avenue and the waylands of the

Illinois Central Railroad Company for the purpose of a park or boulevard. Said portion of Lake Park Place and said alleys, in the event of the acquisition of said land by said South Park Commissioners, will no longer be required for public uses and purposes, and the public interest will be subserved by their vacation. The said South Park Commissioners shall and will on its part save the City of Chicago harmless against any and all damages, costs and expenses, if any, on account of such vacations, and shall pay all such damages and costs as shall be legally established by any property owner or owners on account of such vacations. Said South Park Commissioners shall and will, within ninety days from and after the time limited for the acceptance of this ordinance, file in the office of the Recorder of Deeds of Cook County, Illinois, a certified copy of this ordinance.

SECTION IV. That consent is hereby given and granted to the South Park Commissioners to take, regulate, improve, control and govern, as park and boulevards under its jurisdiction are regulated, improved, controlled and governed, all that part of East Twelfth Street lying between the east line of Michigan Avenue and the west line of the right of way of the Illinois Central Railroad Company. Nothing in this ordinance contained, however, shall be construed as a waiver or relinquishment by the City of Chicago of any of its rights or powers relating to the laying of water mains and pipes, or the building or repairing of sewers or drains, or the laying of electric or other wires or conduits therefor, now or hereafter controlled by said city, or the regulating of openings for the same, or the making of other underground improvements in said East Twelfth Street by said city. The consent hereby granted to said South Park Commissioners to take, regulate, improve, control and govern the portion of East Twelfth Street in this section described, is upon the condition that said South Park Commissioners shall within six months after the acceptance of this ordinance elect to take and take said portion of East Twelfth Street.

SECTION V. The City of Chicago hereby consents that the South Park Commissioners may reclaim, fill in, use, and occupy subject to the limitations in this ordinance contained, the submerged, penetrating and made lands east of the proposed boundary line described in Section 9 of this ordinance and that the Illinois Central Railroad Company may reclaim, fill in, use and occupy the submerged, penetrating and made lands situated east of its present tracks and west of the said proposed boundary line.

SECTION VI. That permission and authority are hereby granted to the Illinois Central Railroad Company, its lessees, licensees, successors and assigns, to construct, maintain, use and operate from time to time a railroad passenger station and passenger terminal, with all the facilities and appurtenances necessary thereto, as may be found by said company, its lessees, licensees, successors and assigns, desirable and convenient, within the space or area bounded as follows: on the north by a line eighty-five (85) feet south of and parallel to the south line of Twelfth Street as at present existing; on the west by the east line of Michigan Avenue; on the south by Thirteenth Street; and on the east by the west line of the waylands of said company and including those portions of streets and alleys described in the following section, including the right to construct and use thereon all tracks, buildings, structures and appliances of every kind essential or convenient for such passenger station and passenger terminal as herein authorized and provided.

SECTION VII. That the portion of Indiana Avenue described as follows: Extending from the north line of Thirteenth Street to the south line of Twelfth Street, and also that portion of Indiana Avenue at the intersection of Thirteenth Street in the shape of a right angled triangle bounded on the east by the east line of Indiana Avenue, bounded on the north by the north line of Thirteenth Street produced easterly across Indiana Avenue, bounded on the west by a line drawn from the northwest corner of Indiana Avenue and Thirteenth Street, to the point where the south line of Thirteenth Street produced easterly intersects the east line of Indiana Avenue; and also that portion of the alley running north and south between Michigan Avenue and Indiana Avenue extending one hundred and eighty-three (183) feet south of the south line of East Twelfth Street, are both hereby vacated. Said portion of said street and said portion of said alley are no

longer required for public uses and purposes, and the public interest will be subserved by their vacation.

The Illinois Central Railroad Company shall and will on its part protect and save the City of Chicago harmless against any and all damages, costs and expenses on account of such vacation, if any, and shall pay all such damages and costs as shall be legally established by any property owner or owners on account of such vacation. The vacation of said portion of Indiana Avenue and said portion of said alley shall be effective only when the Illinois Central Railroad Company shall acquire the right to use for railroad or depot purposes all the land abutting on the west side of Indiana Avenue between Twelfth and Thirteenth Streets.

SECTION VIII. That consent and permission are hereby granted to said Illinois Central Railroad Company to change the location of the existing bridge of the St. Charles Air Line over Indiana Avenue by moving it a distance not exceeding one hundred and fifty (150) feet in either direction, and to construct an additional connection from a point on the St. Charles Air Line between Michigan Avenue and Indiana Avenue with a southeasterly curve extending to the waylands acquired or to be acquired by the Illinois Central Railroad Company, and to build a bridge over Indiana Avenue and a bridge over the alley north of Sixteenth Street and east of Indiana Avenue for the southeasterly connection before mentioned, the said bridges to be of sufficient width to accommodate the number of tracks now existing between Michigan Avenue and Indiana Avenue. The bridges so erected or re-constructed shall be of similar construction to the existing bridge over Indiana Avenue and be built in accordance with plans and specifications to be approved by the Commissioner of Public Works of the City of Chicago.

SECTION IX. That the City of Chicago hereby consents to the use for railroad purposes of, and the location of the tracks of the Illinois Central Railroad Company on, the penetrating, made, submerged lands and other lands situated east of the present tracks of the said company and west of the proposed boundary line described as follows:

Commencing at a point in the south line of Lake Park Place, produced easterly, which is seven hundred and sixty-one (761) feet east of the west line of Michigan Avenue, and extending thence southeasterly in a straight line to intersect with the north line of Thirteenth Street produced east at a point seven hundred (700) feet east of the west line of Indiana Avenue, thence southeasterly in a straight line to intersect with the north line of Eighteenth Street produced east at a point six hundred and sixty (660) feet east of, measured at right angles to, the westerly line of the company's waylands as now established; thence southeasterly in a straight line parallel to and six hundred and sixty (660) feet from said westerly waylands line to the intersection with the north line of Twenty-ninth Street produced east; thence southerly in a straight line to intersect with the north line of Thirty-first Street produced east at a point four hundred (400) feet easterly from, measured at right angles to said westerly waylands line; thence southeasterly, parallel to and four hundred (400) feet easterly from said westerly waylands line to intersect with the center line of Forty-first Street produced east; thence continuing southerly parallel to and four hundred and fifty (450) feet easterly from said westerly waylands line to intersect with the east line of Section Eleven (11), Township Thirty-eight (38) north, Range Fourteen (14) east of the third principal meridian, provided, however, that, subject to any leases in force December 1, 1911, if any there be, all submerged, penetrating and made lands, and other lands, lying west of the proposed boundary line and east of the west line of the present two hundred (200) foot right of way of the Illinois Central Railroad Company between Thirty-first and Fifty-first Streets, shall not be used for any railroad purpose other than tracks, switches, turnouts and passenger stations, without the express consent of the City Council of the City of Chicago.

The City of Chicago agrees that whenever the South Park Commissioners shall, without any expense to said city, provide for said city a pumping station and site therefor in lieu of the present Thirty-ninth Street Pumping Station, acceptable to the City of Chicago and the Sanitary District of Chicago, then the said City of Chicago shall transfer and convey to the South Park Commissioners

the tract of land known as the Thirty-ninth Street Pumping Station, including the improvements thereon, as specifically described in Section 2 of this ordinance. And upon the conveyance aforesaid of said Thirty-ninth Street Pumping Station to said South Park Commissioners, the Illinois Central Railroad Company shall have the right to locate its tracks upon the part of said pumping station site to which it may be entitled. The South Park Commissioners shall provide such site and pumping station as soon as sufficient land in the vicinity of the present site shall have been reclaimed to furnish a suitable site acceptable to said city and to the Sanitary District of Chicago, east of said proposed boundary line and east of the right of way provided for in Section 13 of this ordinance, but the South Park Commissioners shall not be obliged to use the reclaimed land for such purpose, if it shall provide a suitable site acceptable to said city and to said Sanitary District elsewhere.

The consent contained in Section 5 of this ordinance, the permission and authority contained in Section 6 of this ordinance, the vacations provided for and contained in Sections 3 and 7 of this ordinance, the consent and permission provided for and contained in Section 8 of this ordinance and the grant and conveyance of the Thirty-ninth Street Pumping Station tract of land (a portion of which tract is to be transferred and conveyed to said Illinois Central Railroad Company), as provided for and contained in this section and Section 2 of this ordinance, are each and all jointly and severally, hereby expressly declared to be the consideration for the restrictions and limitations upon the use of the aforesaid submerged, penetrating, made and other lands provided for in this section, and for all the other undertakings, obligations, benefits, restrictions and limitations, in this ordinance contained, to be done, performed, observed or carried out by said Illinois Central Railroad Company.

SECTION X. That in the event the City of Chicago shall locate a Harbor District lying wholly or in part between the north line of Sixteenth Street extended east and the north line of Twenty-second Street extended east, the Illinois Central Railroad Company consents that the City of Chicago may at its own expense, construct two viaducts for railroad tracks, general traffic, and other purposes over the lands and tracks of the Illinois Central Railroad Company acquired or to be acquired, in order to obtain access to the said harbor site or location. Said viaducts shall conform in clearance and spans to the proposed viaducts to be constructed by the South Park Commissioners. One of said viaducts shall be parallel with the line of Sixteenth Street extended easterly and the other shall be parallel with the line of Forty-first Street extended easterly.

SECTION XI. That if the work of filling in the submerged lands to be acquired by the Illinois Central Railroad Company shall not be done concurrently with the work of filling to be done by the South Park Commissioners, then the said company shall make a fill on the easterly boundary of the said submerged lands to be acquired by it concurrently with the filling being done by the South Park Commissioners so that the work of the latter may proceed independently of that of said company.

SECTION XII. That all riparian rights in and to the shore of Lake Michigan from the north line of Sixteenth Street extended east to the north line of Twenty-second Street extended east, and the submerged lands adjoining on the east the lands of the South Park Commissioners, when the same have been filled in and reclaimed, as provided in Section 5 of this ordinance, shall be the property of the City of Chicago in perpetuity, to be used by said city, however, only in the event that said submerged lands and riparian rights may be required by said city for harbor purposes. In the event that the South Park Commissioners shall not within a reasonable time after its acceptance of this ordinance reclaim and fill in the submerged lands east of the proposed boundary line as provided for in Sections 5 and 9 of this ordinance, then all said riparian rights between the said north and south boundary lines in this section mentioned and the submerged and other lands east of the said proposed boundary line shall be the property of the City of Chicago in perpetuity, to be used by said city, however, only in the event that said submerged lands and riparian rights may be required by said city for harbor purposes.

SECTION XIII. That the City of Chicago may enter across and over by viaduct any lands which may be owned or acquired by said South Park Commis-

sioners with not more than six (6) railroad tracks on or adjacent to the line extended east of one of the following streets: Sixteenth Street, Eighteenth Street, Nineteenth Street, Twentieth Street or Twenty-first Street; and may also use and occupy a railroad right of way from Forty-first Street to Sixteenth Street for not more than four (4) railroad tracks located immediately east of the proposed boundary line provided for in Section 9 of this ordinance. The South Park Commissioners shall grant to the city free and suitable access to said harbor when located, but the expense of constructing said railroad tracks and viaducts shall be borne by said city.

SECTION XIV. That said South Park Commissioners shall construct and maintain a public pier for passenger and excursion boats at Twenty-second Street or near Twenty-second Street to the south thereof, accessible by viaduct over or tunnels under the tracks of the Illinois Central Railroad Company. Said South Park Commissioners shall also install and maintain two public bathing beaches with adequate buildings and facilities between Twenty-second Street and Jackson Park, said beaches to be accessible by tunnels under or viaducts over the tracks of the Illinois Central Railroad Company.

The Illinois Central Railroad Company by its acceptance of this ordinance does hereby consent to the construction and maintenance of the said tunnels or viaducts across its tracks and lands.

Upon notice by said city to said Illinois Central Railroad Company of its intention to construct said viaduct or tunnels said company shall immediately elect whether said crossing or crossings shall be made by viaducts or tunnels, and thereupon said city shall make such crossing or crossings by viaducts or tunnels, as said company may elect.

SECTION XV. That whenever the City of Chicago turns over South Park Avenue to said South Park Commissioners for boulevard purposes, said Commissioners shall cause said South Park Avenue to be extended without expense to the City of Chicago from Twenty-second Street across the tracks of the Illinois Central Railroad Company and shall cause a suitable viaduct to be built connecting said South Park Avenue as extended with the park property on the east side of the tracks of the Illinois Central Railroad Company.

SECTION XVI. That nothing in this ordinance contained shall be construed to modify, limit or abridge in any wise the police powers of the City of Chicago, or of the South Park Commissioners, under and by virtue of the laws of the State of Illinois, or the right of the City of Chicago or the South Park Commissioners to pass and enforce all needful and proper ordinances in the exercise of said police powers vested in them respectively; nor shall anything in this ordinance contained in any wise modify, limit or abridge the powers of the City of Chicago or of the South Park Commissioners, from time to time as either of the said municipalities may elect, to exercise the right of eminent domain under the laws of this State; nor shall anything in this ordinance contained in any manner impair, lessen or waive the rights of the City of Chicago or the obligations of the Illinois Central Railroad Company, under existing ordinances and laws, except as herein expressly provided.

SECTION XVII. This ordinance shall take effect and be in force from and after its passage, provided that said Illinois Central Railroad Company and said South Park Commissioners shall each within ninety (90) days after the passage hereof file its acceptance of this ordinance in the office of the City Clerk of the City of Chicago.

## APPENDIX H.

1. PETITION OF THE SOUTH PARK COMMISSIONERS TO THE CIRCUIT COURT OF COOK COUNTY, ASKING FOR THE CONFIRMATION OF THE AGREEMENT OF MARCH 30, 1912, BETWEEN SAID COMMISSIONERS AND THE ILLINOIS CENTRAL RAILROAD COMPANY.
2. AGREEMENT OF MARCH 30, 1912, BETWEEN THE SOUTH PARK COMMISSIONERS AND THE ILLINOIS CENTRAL RAILROAD COMPANY.
3. SUPPLEMENTAL AGREEMENT OF JUNE 26, 1912, BETWEEN THE SOUTH PARK COMMISSIONERS AND THE ILLINOIS CENTRAL RAILROAD COMPANY.
4. FINAL DECREE OF JUDGE LOCKWOOD HONORE, JULY 10, 1912.

1. PETITION OF THE SOUTH PARK COMMISSIONERS TO THE CIRCUIT COURT OF COOK COUNTY.

STATE OF ILLINOIS, } ss.  
COUNTY OF COOK

IN THE CIRCUIT COURT OF COOK COUNTY.

IN THE MATTER OF THE PETITION OF THE SOUTH PARK COMMISSIONERS, PRAYING THAT THE BOUNDARY LINE FIXED BY AN AGREEMENT BETWEEN THE SOUTH PARK COMMISSIONERS AND THE ILLINOIS CENTRAL RAILROAD COMPANY BE CONFIRMED AND THAT THE BOUNDARY LINE BETWEEN THE LANDS TO BE ACQUIRED BY THE DEFENDANT, THE ILLINOIS CENTRAL RAILROAD COMPANY, AND THE LANDS TO BE ACQUIRED BY YOUR PETITIONER UNDER SAID CONTRACT BE ESTABLISHED AND CONFIRMED.

PETITION OF THE SOUTH PARK COMMISSIONERS.

*To the Judges of the Circuit Court of Cook County, in Chancery Sitting:*

Your petitioner, the South Park Commissioners, a public corporation, respectfully represents unto the court as follows:

1. That it is a municipal corporation organized and existing under the laws of the State of Illinois, and more especially an Act entitled "An Act to provide for the location and maintenance of a park for the Towns of South Chicago, Hyde Park and Lake," approved February 24, 1869; that under the provisions of said Act certain persons were appointed by the Governor of the State of Illinois and constituted the first Board of South Park Commissioners; that thereafter from time to time the successors of said South Park Commissioners as so appointed have been appointed by the judge or judges of the Circuit Court of Cook County, as provided in said Act, and that John Barton Payne, Joseph Donnersberger, Henry G. Foreman, Charles L. Hutchinson and Edward Tilden have



been appointed and commissioned by said judges of said Circuit Court as such South Park Commissioners, and now constitute and are the South Park Commissioners.

2. That said South Park Commissioners now has, and for more than five years last past has had, control over two separate public parks, namely: (1) Grant Park, more particularly described as the land including all submerged land bounded on the north by the south line of Randolph Street extended in a straight line east from North Michigan Avenue to the harbor line established by the Secretary of War in Lake Michigan, bounded on the east by said harbor line, bounded on the south (east of the right of way, easement and grounds of the Illinois Central Railroad Company) by the south line of the street known as Lake Park Place (formerly known as Park Row) extended in a straight line east from South Michigan Avenue to said harbor line, and (west of said right of way, easement and grounds) by the north line of said Lake Park Place, and bounded on the west by the east line of South Michigan Avenue and North Michigan Avenue, excepting, however, the right of way, easement and grounds of the Illinois Central Railroad Company extending north and south through said Grant Park, situated in the City of Chicago, County of Cook and State of Illinois; and (2) Jackson Park, more particularly described as the land bounded on the north by the south line of East Fifty-sixth Street, from the east line of Stony Island Avenue to Lake Michigan, on the east by the shore of Lake Michigan, from the south line of East Fifty-sixth Street to a point due east of the center of Section Twenty-four (24), Township Thirty-eight (38) north, Range Fourteen (14) east of the third principal meridian, on the south by a line running due west from the shore of Lake Michigan through the center of said Section Twenty-four (24) to the east line of Stony Island Avenue, and on the west by the east line of Stony Island Avenue from said line through the center of said Section Twenty-four (24) to the south line of Fifty-seventh Street, the south line of said Fifty-seventh Street from the east line of said Stony Island Avenue to the east line of the Illinois Central Railroad Company's right of way, the east line of said right of way from the south line of said Fifty-seventh Street to the north line of said street, the north line of said Fifty-seventh Street from said east line of said right of way to the east line of Stony Island Avenue, and the east line of said Stony Island Avenue from the north line of said Fifty-seventh Street to the place of beginning; that both of said public parks border upon the public waters of Lake Michigan within the corporate limits of the City of Chicago, in the County of Cook, in the State of Illinois.

3. That under the laws of the State of Illinois, and more especially under the provisions of an Act entitled "An Act to enable park commissioners having control of a park or parks bordering upon public waters in this state to enlarge and connect the same from time to time by extensions over lands and the bed of public waters and defining the use which may be made of such extensions and granting submerged lands for the purpose of such enlargements," approved May 14, 1903, in force July 1, 1903, your petitioner now has, and for more than five years last past has had the power to connect said Grant Park and said Jackson Park by constructing a boulevard, driveway or parkway extending over and upon the bed of said public waters of Lake Michigan and over and upon any lands penetrating into said waters.

4. That this petitioner intends and proposes to construct a boulevard, driveway and parkway extending over and upon the bed of said public waters, and over and upon certain lands penetrating into said waters, for the purpose of connecting said Grant Park and Jackson Park.

5. That your petitioner under the laws of the State of Illinois, more particularly said Act last above mentioned and an Act entitled "An Act authorizing park commissioners to acquire and improve submerged and shore lands for park purposes, providing for the payment therefor and granting unto such commissioners certain rights and powers, and to riparian owners certain rights and titles," approved May 2, 1907, now has and for more than four years last past has had the power to acquire the riparian and other rights of the owners of lands, whether individuals or corporations, on the shore adjoining said public waters upon and over which it is proposed to construct such extension and connection, and also has power to acquire the title of the private and public owners, if any

there be, to lands lying beneath said public waters, also to any lands penetrating into said public waters and to any lands into, upon or over which it is proposed to construct said extension and connection by contract with or deed from any such owner or owners.

6. That the Illinois Central Railroad Company, a corporation duly organized and existing under the laws of the State of Illinois, is the owner of the lands and riparian rights (except as to the two tracts described in paragraph 8 hereof) upon the shore of said Lake Michigan on the inner or shore side of the boundary line hereinafter mentioned, which has been agreed upon between said corporation and your petitioner, and is the owner of all riparian and other rights appurtenant to said lands on the shore adjoining said public waters upon and over the bed of which it is proposed to construct such extension and connection, and is also the owner of certain lands penetrating into said public waters, and the riparian rights appurtenant thereto, upon and over which lands it is proposed by your petitioner to construct said extension and connection as a part of the plan of your petitioner to connect said Grant Park with said Jackson Park as aforesaid.

7. That your petitioner, as the South Park Commissioners, under and in accordance with the aforesaid Act entitled "An Act authorizing park commissioners to acquire and improve submerged and shore lands for park purposes, providing for the payment therefor and granting unto such commissioners certain rights and powers and to riparian owners certain rights and titles," has agreed with said Illinois Central Railroad Company, as such shore and riparian owner, upon a boundary line dividing the submerged and penetrating lands to be acquired by your petitioner and the submerged and penetrating lands to be taken, owned and used by the said Illinois Central Railroad Company as such shore and riparian owner in lieu of and as compensation for the release of said riparian and other rights to your petitioner, as set forth in a certain agreement in writing entered into by and between your petitioner and said Illinois Central Railroad Company, and bearing date the 30th day of March, A. D. 1912, a true copy of which said agreement is hereto attached, marked "Exhibit A," and made a part hereof.

The said boundary line above mentioned is more particularly described as follows:

Commencing at a point in the south line of said Lake Park Place produced east, that is seven hundred and sixty-one (761) feet east of the west line of Michigan Avenue, and extending thence southeasterly in a straight line to intersect with the proposed south line of Twelfth Street Boulevard extended east, being a line one hundred and eighteen (118) feet south of the existing north line of Twelfth Street, at a point eight hundred and seventy-seven (877) feet east of the west line of Michigan Avenue; thence east eighty (80) feet; thence southeasterly in a straight line to intersect with the south line of Twenty-fifth Street extended east at a point six hundred and sixty (660) feet easterly from, measured at right angles to, the westerly line of the company's waylands as now established; thence southeasterly in a straight line parallel to and six hundred and sixty (660) feet from said westerly waylands line to intersect with the north line of Twenty-ninth Street extended east; thence southeasterly in a straight line to intersect with the north line of Thirty-first Street extended east at a point three hundred (300) feet easterly from, measured at right angles to, said westerly waylands line; thence southeasterly parallel to and three hundred (300) feet easterly from said westerly waylands line to intersect with the north line of Thirty-ninth Street extended east; thence west along said north line fifty (50) feet; thence southeasterly parallel to and two hundred and fifty (250) feet easterly from said westerly waylands line to intersect with the center line of Forty-first Street extended east; thence continuing southeasterly on a line parallel to and three hundred (300) feet easterly from the company's westerly waylands line as now established to intersect with the north line of Forty-ninth Street, extended east, all within the corporate limits of the City of Chicago, County of Cook and State of Illinois; which said line, with its courses and distances, is shown in red on the plat attached to the copy of the aforesaid agreement which is marked "Exhibit A" and made a part hereof, and insofar as the said line is located along and opposite lands on the shore adjoining the said public waters,

which, together with the riparian rights pertaining thereto, are now owned by the said Illinois Central Railroad Company, it, the said line, is hereby established, acknowledged and confirmed, subject to the approval of this Honorable Court, as the said permanent boundary line dividing the submerged and other lands and rights to be acquired taken, owned and used by the South Park Commissioners, and the submerged and other lands and rights to be acquired, taken, owned and used by the said Illinois Central Railroad Company.

8. Your petitioner further represents that said agreement provides for the release to it by the Illinois Central Railroad Company and for the acquisition by your petitioner from said company, of certain riparian and other rights, as particularly specified and set forth in said agreement, a copy of which is hereto attached as Exhibit "A," excepting, however, from the riparian and other rights so to be acquired by your petitioner as aforesaid, the rights appurtenant to two certain tracts or areas described as follows: (1) That certain tract of land described as the part lying east of the west line of the right of way of the Illinois Central Railroad Company, of the northeast fractional quarter (N. E.  $\frac{1}{4}$ ) (except the south 8.70 chains thereof), of Section Twenty-seven (27), Township Thirty-nine (39) north, Range Fourteen (14) east of the third principal meridian, and (2) a tract or parcel of land three hundred (300) feet in width (from north to south) situated along and upon either side of the extension eastwardly of Thirty-ninth Street (formerly known as Egan Avenue), being that certain parcel of land conveyed to the City of Chicago by the Illinois Central Railroad Company by quitclaim deed dated August 17, 1898. All of which riparian and other rights, except as to the said two parcels last above described, are covered by and embraced in said contract hereinbefore mentioned between your petitioner and the Illinois Central Railroad Company.

9. That the rights and interests of the public have been duly conserved in and by said agreement.

WHEREFORE, your petitioner, inasmuch as it has in the manner aforesaid contracted to acquire said riparian and other rights of said Illinois Central Railroad Company along the shore of Lake Michigan adjoining said submerged lands, and has in and by said agreement agreed upon the dividing line aforesaid, as described herein and in said contract and shown in red on the plat thereto attached, under and in accordance with said Act, referred to in paragraph 7 hereof, and with the laws of the State of Illinois, brings and files this, its petition, on the chancery side of this Circuit Court of Cook County, in which the lands hereinabove described are situated. In and by this, its petition, your petitioner prays that the boundary line between the lands to be acquired by the said Illinois Central Railroad Company, defendant hereto, and the lands to be acquired by your petitioner, as the South Park Commissioners, under and in accordance with said Act entitled "An Act authorizing park commissioners to acquire and improve submerged and shore lands for park purposes, providing for the payment therefor, and granting unto such commissioners certain rights and powers and to riparian owners certain rights and titles," and under said contract between your petitioner and said Illinois Central Railroad Company, which boundary line is more particularly hereinbefore described, and is the same boundary line which is set forth in paragraph seven (7) of said contract, a copy of which is attached hereto, marked "Exhibit A," may by the decree of this Honorable Court, be established and confirmed throughout the entire extent of said line from the south line of Lake Park Place (formerly known as Park Row) extended eastwardly to the north line of Forty-ninth Street extended eastwardly, in the City of Chicago, County of Cook and State of Illinois, except, however, that portion adjacent to the land described as that part lying east of the west line of the right of way of the Illinois Central Railroad Company, of the northeast fractional quarter (N. E.  $\frac{1}{4}$ ) (except the south 8.70 chains thereof) of Section Twenty-seven (27), Township Thirty-nine (39) north, Range Fourteen (14) east of the third (3d) principal meridian, and except a parcel of land three hundred (300) feet in width situated along and upon either side of the eastwardly extension of Thirty-ninth Street (formerly known as Egan Avenue), being that parcel conveyed to the City of Chicago by the Illinois Central Railroad Company by quit claim deed dated August 17, 1898, as the same was agreed upon in

and by said agreement by your petitioner and by said Illinois Central Railroad Company.

The Illinois Central Railroad Company is the owner of the shore lands, riparian and other rights embraced within and covered by the said contract made by your petitioner with said railroad company. Inasmuch, however, as it appears from the records of Cook County, Illinois, that the following named persons may claim some interest in a part of said premises, viz.:

Kilbourn, heirs and devisees of Ellen A. Kilbourn, deceased; Florence Ann D. Reed, Joseph S. Reed, Florence A. D. Reid, Joseph S. Reid, Effie R. Fake, Fred L. Fake, Mrs. Fred L. Fake, Winnifred S. Reed, Mary Florence Reed, Clark Scammon Reed, heirs and devisees of John Y. Scammon and Arianna E. Scammon, deceased; Samuel R. Buchanan, Elizabeth R. Dupee, William H. R. Buchanan, Catherine R. Spencer, James O. R. Buchanan, Mabel R. Buchanan, Robert R. Buchanan, heirs and devisees of John S. Buchanan, deceased; Cynthia Fuller, devisee of Thomas Brock Fuller, deceased; Almira H. Gardner, Mary G. Brainerd, Harry J. Brainerd, Jessie S. Gardner, William H. Gardner, George A. Gardner, heirs of Samuel S. Gardner, deceased; Mary G. Gardner, Helen M. Sloat, George W. Sloat, Allie M. Rogers, Ernest J. Rogers, Jennie L. Gardner, Flora M. Gardner, heirs and devisees of Daniel B. Gardner, deceased; Lena Liebenstein, Matilda Spiegel, Joseph Spiegel, Albert Liebenstein, Jennie Freudenthal, Joseph Freudenthal, Ella Fox, Leo Fox, Julia Liebenstein, heirs and devisees of Joseph Liebenstein, deceased; unknown heirs and devisees of S. Newton Dexter, deceased; unknown heirs and devisees of Stephen Bronson, Jr., deceased; unknown heirs and devisees of Belden F. Culver, deceased; Maria L. Meeker, Margaret Meeker Cook, David S. Cook, Jr., Louise Meeker Walker, James R. Walker, Arthur Meeker, heirs and devisees of Arthur B. Meeker, deceased; Sarah E. Wells, Lydia N. Wells, William H. Wells, Jr., Frances B. Wells, George G. Wells, heirs and devisees of William Harvey Wells, deceased; unknown heirs and devisees of Mary A. Clark, deceased; unknown heirs and devisees of John F. Seaman, deceased; unknown heirs and devisees of Augustus M. Herrington, deceased; unknown heirs and devisees of Abby Ford, deceased; unknown heirs and devisees of S. G. Pope, individually and as trustee, deceased; unknown heirs and devisees of Amanda Acker, deceased; unknown heirs and devisees of William P. Kilbourn, deceased; unknown heirs and devisees of Martha P. Wells, deceased; Guaranty Trust Company of New York, a corporation organized and existing under the laws of the State of New York, trustee, and United States Trust Company of New York, a corporation organized and existing under the laws of the State of New York, trustee; the unknown heirs and devisees of Mabel A. Buchanan, deceased; the unknown heirs and devisees of John R. Buchanan, deceased, and Margaret Chapman.

They and each of them are in accordance with the provisions of said Act hereinbefore named, hereby made parties defendant to this petition.

Your petitioner further represents that there are other persons whose names are unknown to your petitioner, who claim some interest in said premises or some part thereof, and whom your petitioner makes defendants hereto by the name and designation of The Unknown Owners.

May it please your Honors to grant process of summons in this suit in the same manner as in suits in chancery, directed to the sheriff of said County of Cook, commanding him that he summon the defendants, The Illinois Central Railroad Company, a corporation; Lewis W. Kilbourn, Orpha J. Kilbourn, James S. Kilbourn, heirs and devisees of Ellen A. Kilbourn, deceased; Florence Ann D. Reed, Joseph S. Reed, Florence A. D. Reid, Joseph S. Reid, Effie R. Fake, Fred L. Fake, Mrs. Fred L. Fake, Winnifred S. Reed, Mary Florence Reed, Clark Scammon Reed, heirs and devisees of John Y. Scammon and Arianna E. Scammon, deceased; Samuel R. Buchanan, Elizabeth R. Dupee, William H. R. Buchanan, Catherine R. Spencer, James O. R. Buchanan, Mabel R. Buchanan, Robert R. Buchanan, heirs and devisees of John S. Buchanan, deceased; Cynthia Fuller, devisee of Thomas Brock Fuller, deceased; Almira H. Gardner, Mary G. Brainerd, Harry J. Brainerd, Jessie S. Gardner, William H. Gardner, George A. Gardner, heirs of Samuel S. Gardner, deceased; Mary G. Gardner, Helen M. Sloat, George W. Sloat, Allie M. Rogers, Ernest J. Rogers, Jennie L. Gardner, Flora M. Gardner, heirs and devisees of Daniel G. Gardner, deceased; Lena Liebenstein.

Matilda Spiegel, Joseph Spiegel, Albert Liebenstin, Jennie Freudenthal, Joseph Freudenthal, Ella Fox, Leo Fox, Julia Liebenstein, heirs and devisees of Joseph Liebenstein, deceased; unknown heirs and devisees of S. Newton Dexter, deceased, unknown heirs and devisees of Stephen Bronson, Jr., deceased; unknown heirs and devisees of Belden F. Culver, deceased; Maria L. Meeker, Margaret Meeker Cook, David S. Cook, Jr., Louise Meeker Walker, James R. Walker, Arthur Meeker, heirs and devisees of Arthur B. Meeker, deceased; Sarah E. Wells, Lydia N. Wells, William H. Wells, Jr., Frances B. Wells, George G. Wells, heirs and devisees of William Harvey Wells, deceased; unknown heirs and devisees of Mary A. Clark, deceased; unknown heirs and devisees of John F. Seaman, deceased; unknown heirs and devisees of Augustus M. Herrington, deceased; unknown heirs and devisees of Abby Ford, deceased; unknown heirs and devisees of S. G. Pope, individually and as trustee, deceased; unknown heirs and devisees of Amanda Acker, deceased; unknown heirs and devisees of William P. Kilbourn, deceased; unknown heirs and devisees of Martha P. Wells, deceased; Guaranty Trust Company of New York, a corporation organized and existing under the laws of the State of New York, trustee, and United States Trust Company of New York, a corporation organized and existing under the laws of the State of New York, trustee; the unknown heirs and devisees of Mabel A. Buchanan, deceased; the unknown heirs and devisees of John R. Buchanan, deceased; Margaret Chapman and the "Unknown Owners;" to appear before this said court on the first day of the next May term thereof, to be held at the court house in the City of Chicago, in the County of Cook aforesaid, on the third Monday of May, A. D. 1912, being the twentieth day of said month, and then and there to answer this petition, etc., and that process of publication be made as provided by law as to said defendants residing without the State of Illinois, and said defendants whose residences are unknown, and also as to said defendants who are made parties to this proceeding as the unknown owners.

SOUTH PARK COMMISSIONERS,  
By ROBERT REDFIELD,  
*Its Attorney.*

## 2. AGREEMENT OF MARCH 30, 1912, BETWEEN THE SOUTH PARK COMMISSIONERS AND THE ILLINOIS CENTRAL RAILROAD COMPANY.

THIS AGREEMENT, MADE THIS THIRTIETH DAY OF MARCH, A. D. 1912, BETWEEN THE SOUTH PARK COMMISSIONERS, A MUNICIPAL CORPORATION, CREATED BY THE LAWS OF THE STATE OF ILLINOIS, HEREINAFTER CALLED THE COMMISSIONERS, PARTY OF THE FIRST PART, AND THE ILLINOIS CENTRAL RAILROAD COMPANY, A CORPORATION OF SAID STATE, HEREINAFTER CALLED THE COMPANY, PARTY OF THE SECOND PART, WITNESSETH:

WHEREAS, the Commissioners now have control over the public parks in the City of Chicago, Illinois, known as Grant Park and Jackson Park, both of which border upon public waters in this State, to-wit, the waters of Lake Michigan, and are now separate; and,

WHEREAS, the Commissioners under the authority vested in them by the laws of said State, wish to extend Jackson Park over and upon the bed of said public waters adjoining thereto, and to connect Jackson and Grant Parks by a boulevard, driveway or parkway extending over and upon the bed of the said public waters, and over and upon any lands penetrating into said waters, consistently, however, with the practical navigation of said public waters, for the purposes of commerce; and,

WHEREAS, the Company is the owner of certain lands, piers, docks and rights thereto pertaining, adjoining or near to the southerly end of said Grant Park and penetrating into the said waters east of the boundary line herein established, which said Commissioners desire to acquire for the purposes hereinafter stated; and,

WHEREAS, said Company claims to own the greater part of the lands and the riparian and other rights pertaining to such lands on the shores adjoining said public waters between the south line of Lake Park Place (formerly known as Park Row), extended eastwardly, and a point in the east line of Section Eleven (11), Township Thirty-eight (38) north, Range Fourteen (14) east of the third principal meridian, in the said city, hereinafter fixed as the southerly end of the said boundary line to be established, except the lands and riparian and other rights of the City of Chicago, and except as hereinafter provided, and is also the owner of certain lands penetrating into said public waters beyond the said boundary line, upon and over which it is proposed to construct such extension and connection, and the construction of such extension and connection will interfere with or destroy the enjoyment by said Company of its said riparian rights and necessitate the appropriation by said Commissioners of that part of the said lands of the Company penetrating into the said public waters beyond said boundary line; and the acquisition by the Commissioners of said riparian rights and such part of the said penetrating lands of the Company is necessary to the construction of the proposed boulevard, driveway, or parkway; and,

WHEREAS, the Commissioners and the Company desire to agree, in form and manner provided by the laws of the State of Illinois, upon a permanent boundary line dividing between the said Commissioners and the Company the submerged and other lands which extend from the east line of the said right of way of said Company into and under the said public waters between the termini of the said boundary line as hereinafter described, and to fix and define the part of such submerged and other lands which shall be taken, owned and used by the Company, in lieu of, and as compensation for, the release to the Commissioners of its said riparian rights and its interest in the part of said lands penetrating into the said public waters beyond the said boundary line, and to confirm in the said Commissioners title, jurisdiction and control, for park purposes as provided by law, over the said riparian rights of the Company and the part of said lands penetrating beyond the said boundary line; and,

WHEREAS, the said Company claims to be the owner, as aforesaid, of the greater part of the said shore lands, the riparian rights pertaining thereto, and of the said penetrating lands between the termini of the said proposed boundary line, except as aforesaid, and except as hereinafter provided, and the Commissioners wish to have established, without delay, the said boundary line opposite the said shore lands owned by the Company, to thereby secure the early use, for park purposes, of certain of the said penetrating and other lands on the easterly side of such boundary line, to the end that there may be confirmed in said Commissioners the complete title, jurisdiction and control, for park purposes, as provided by law, over all of said riparian rights and lands penetrating beyond the said boundary line between the said termini, and that there may be confirmed in the Company the right and title to the submerged and other lands between the said easterly line of its present right of way and the said boundary line, as hereinafter provided, excepting, however, the part of said line which extends through, near or along the land now occupied and used by the City of Chicago for its Thirty-ninth Street Pumping Station and held by it under a deed from the Company dated August 17, 1898, which land is not intended to be included herein; and,

WHEREAS, the Commissioners and the Company entered into a contract dated December 11, A. D. 1911, for the establishment of a boundary line and other matters; and,

WHEREAS, since the making of said contract the parties thereto have agreed upon a new boundary line and other provisions, in lieu of the said boundary line and provisions of the said contract;

NOW, THEREFORE, in consideration of the premises and of the benefit to result to each of the parties herefrom, and the mutual covenants and agreements of the parties herein contained, but subject to the approval of the Circuit Court of Cook County, Illinois, as hereinafter provided, it is covenanted and agreed between the Commissioners and the Company, as follows:

## ARTICLE I.

The said contract, dated the 11th day of December, A. D. 1911, shall be and it is hereby canceled and annulled.

## ARTICLE II.

The permanent boundary line dividing the submerged and other lands and rights to be acquired, taken, owned and used by the Commissioners, and the submerged and other lands and rights to be acquired, taken, owned and used by the Company (in lieu of, and as compensation for, the release of said riparian rights and said part of said penetrating lands to the Commissioners, as hereinafter provided), here contemplated and intended to be established, as the rights and interests essential thereto may be acquired as hereinafter provided, is the line described as follows, namely:

Commencing at a point in the south line of said Lake Park Place produced east, that is, seven hundred and sixty-one (761) feet east of the west line of Michigan Avenue and extending thence southeasterly in a straight line to intersect with the proposed south line of Twelfth Street Boulevard extended east at a point eight hundred and seventy-seven (877) feet east of the west line of Michigan Avenue; thence east eighty (80) feet; thence southeasterly in a straight line to intersect with the south line of Twenty-fifth Street extended east, at a point six hundred and sixty (660) feet easterly from, measured at right angles to, the westerly line of the company's waylands as now established; thence southeasterly in a straight line parallel to and six hundred and sixty (660) feet from said westerly waylands line to intersect with the north line of Twenty-ninth Street extended east; thence southeasterly in a straight line to intersect with the north line of Thirty-first Street extended east, at a point three hundred (300) feet easterly from, measured at right angles to, said westerly waylands line; thence southeasterly parallel to and three hundred (300) feet easterly from said westerly waylands line to intersect with the north line of Thirty-ninth Street extended east; thence west along said north line fifty (50) feet; thence southeasterly parallel to and two hundred and fifty (250) feet easterly from said westerly waylands line to intersect with the center line of Forty-first Street extended east; thence continuing southeasterly on a line parallel to and three hundred (300) feet easterly from the company's westerly waylands line as now established to intersect with the north line of Forty-ninth Street, extended east, which said line, with its courses and distances, is shown in red on the plat hereto attached and made part hereof; and in so far as the said line is located along and opposite lands on the shore adjoining the said public waters, which, together with the riparian rights pertaining thereto, are now owned by the Company, it, the said line, is hereby established, acknowledged and confirmed, subject to the approval of the said Circuit Court, as the said permanent boundary line dividing the submerged and other lands and rights to be acquired, taken, owned and used by the Commissioners, and the submerged and other lands and rights to be acquired, taken, owned, and used by the said Company.

## ARTICLE III.

Should it appear at any time that there are any adverse interests (except the interests of the City of Chicago pertaining to its pumping station situated at Thirty-ninth Street above referred to), such adverse interests shall be acquired by the Company, and from time to time as such adverse interests, if any, are obtained, the Commissioners shall take such steps as are contemplated by the Act under which such proposed boundary line is to be obtained, to secure the final confirmation and establishment of the said dividing and boundary line through each, and the submerged and other lands and rights derived from such adverse interests, if any, shall be divided between the parties hereto in the same manner and by the same permanent boundary line hereinbefore described as in case of the lands and rights now owned by the Company.

And the Commissioners shall pay to said Company on demand from time to time one-half ( $\frac{1}{2}$ ) the price or cost and expense of the acquirement of any such adverse interests, provided the amount of the price, cost or expense for one-half

( $\frac{1}{2}$ ) of which demand is made at any time, has been approved by the Commissioners before the obligation therefor was incurred. If the Commissioners have not approved, or do not approve the price, cost or expense, then the amount which the Commissioners shall pay shall be determined by the finding of a majority of three arbitrators, one to be chosen by each of the parties hereto, and the third to be named by the Judge of the District Court of the United States for the Southern District of Illinois. The arbitrators shall determine what would have been a reasonable price, cost or expense, under all the circumstances, and shall require each of the parties hereto to bear not less than one-half of such reasonable price, cost or expense, not to exceed one-half ( $\frac{1}{2}$ ) of the actual price, cost or expense.

The term "adverse interests" as used in this agreement shall be taken to include any lands, riparian rights or interests not owned by the Company. Should the Company fail to acquire such adverse interests, or any of them, within a reasonable time through inability to reach an agreement on the price or for any cause, the Commissioners may purchase such adverse interests, or any of them, and shall be reimbursed by the Company in the same manner as it is herein provided that the Company shall be reimbursed by the Commissioners in case of a purchase by the Company, the situations being reversed, and the same provisions shall be applicable. Both parties to this agreement shall cooperate with each other to the fullest extent and exercise all their legal powers to perfect the entire permanent and dividing boundary line and to carry out the purposes of this agreement.

#### ARTICLE IV.

The Commissioners shall without delay file from time to time as may be necessary a petition or petitions, or bill or bills, in chancery, on the chancery side of the Circuit Court of Cook County, Illinois, praying that the said boundary line above established between the lands acquired or to be acquired by the Commissioners, and the lands acquired or to be acquired by the Company, may be established and confirmed by the decree of said court, either in entirety in one decree or in several decrees corresponding to the petitions or bills filed for that purpose; and they shall exercise all proper diligence and take all proper steps in the prosecution of such petition or petitions, or bill or bills, as may from time to time be necessary, as contemplated and required by an Act of the State of Illinois, approved May 2, 1907, entitled, "An Act authorizing park commissioners to acquire and improve submerged and shore lands for park purposes, providing for the payment therefor, and granting unto such commissioners certain rights and powers and to riparian owners certain rights and titles," and generally shall exert all reasonable efforts to the end that said boundary line as herein defined may be established and confirmed by the final judgment or judgments, decree or decrees, of said court, in the said proceeding or proceedings.

#### ARTICLE V.

Upon the establishment and confirmation by the final judgment or judgments and decree or decrees in said proceeding or proceedings of the said part of said dividing and boundary line above described as the permanent dividing and boundary line along and opposite said lands on the shore adjoining the said part of the said public waters, which, together with the riparian rights pertaining thereto, are now owned by the Company, all of the riparian rights now held or owned by the Company, as the owner of said lands, and also all the right, title and interest of the Company in and to the part of the submerged, reclaimed, made and penetrating lands, and in and to the part of any piers, basins or projections situate, lying or being on or penetrating or projecting into said public waters beyond and on the easterly side of such part of said boundary line, shall vest in, be taken by, held and acquired by the said Commissioners, and, in that event, the same are hereby vested in, transferred, assigned and conveyed to the said Commissioners, for the purposes aforesaid; and upon such establishment and confirmation as aforesaid of the said part of said dividing and boundary line as the permanent dividing and boundary line along and opposite the said lands of the Company, the part of the said submerged, reclaimed, made and



penetrating lands, and the waters thereon, situate and being on the westerly side of said part of said boundary line, and all the right, title and interest in or pertaining thereto shall be taken, owned and used by the Company, in lieu of, and as compensation for, the release to the Commissioners of its said above described riparian and other rights and property, and, in that event, the same are hereby vested in, transferred, assigned and conveyed to said Company. The said Company shall have and hold the fee simple title to any and all such lands and interests so vested in it, with the full right to fill in, improve, protect and use the same for railroad and other lawful purposes, and to sell and convey the same up to the lines so established, free from any adverse claim in any way arising out of any question as to where the shore line was at any time in the past, or as to the title to any existing accretions. And upon the establishment and confirmation as aforesaid of the said part of the said dividing and boundary line as aforesaid, the said Company as a part of the release of its right, title and interest in said part of such basins, piers, or projections, and all other property lying east of such boundary line shall consent, and in the event of the establishment and confirmation as aforesaid of the said part of said dividing and boundary line as aforesaid, this instrument shall be effective as the consent of the Company, that the basin now located east of Twelfth Street extended may be closed and filled and the lands under the same reclaimed by said Commissioners, and the said Company will by quitclaim deed convey to the Commissioners the following described property, to-wit:

A parcel of ground along the shore of Lake Michigan in Cook County, State of Illinois, described as follows:

Beginning at a point in the south line of Lake Park Place (formerly known as Park Row) in the City of Chicago produced easterly, seven hundred and sixty-one (761) feet east of the west line of Michigan Avenue, extending thence southeasterly, making an angle of forty-five (45) degrees with a line parallel to the west line of Michigan Avenue seven hundred and seventy-eight (778) feet, more or less, to a point in the north line of the Illinois Central Railroad Company's Thirteenth Street pier, thirteen hundred and twenty (1320) feet east of the west line of Michigan Avenue; thence east along said north line five hundred and thirty (530) feet, more or less, to east line of said pier; thence south along said east line two hundred and eighty-eight (288) feet, more or less, to the south line of said pier; thence west along said south line to an intersection with the said permanent boundary line above described in Article Two, paragraph two, hereof, thence northwesterly along said permanent boundary line to the place of beginning. The Company further undertakes to secure at the time said quitclaim deed is delivered, the release of its Refunding Mortgage, being the indenture dated November 1, 1908, by and between the Company and the Guaranty Trust Company of New York, so far as the said mortgage or indenture relates to or covers the property last above described, so to be conveyed by quitclaim deed, it being intended to be conveyed to said Commissioners as and for a site for a museum, to be erected either by said Commissioners or by the directors or trustees of such museum as may be authorized by said Commissioners, and as to said lands above described any conveyance to the Commissioners shall contain a dedication of said land to public use for museum purposes or to such other park purposes as said Commissioners may determine, and said Company specifically declares that it is not its intention that said land shall become attached to or become a part of Grant Park unless and until the said Commissioners shall, by ordinance or resolution, give evidence of their intention to attach said land to said park.

IT IS COVENANTED AND AGREED that upon the establishment and confirmation of any part of the said boundary line by the said court, the part of said line so established and confirmed shall thereafter be the permanent dividing and boundary line to the extent so established and confirmed, and shall not be affected or changed thereafter either by accretions or erosions; and upon the final establishment of said boundary line through its entire length, as contemplated by this agreement, it shall thereafter be the permanent dividing and boundary line of the said lands so to be taken by the respective parties as aforesaid between the termini of the said line.

## ARTICLE VI.

The Company covenants and agrees that upon the final establishment and confirmation of the said boundary line along, opposite and through the lands on the shore adjoining the said part of the said public waters, which, with the riparian rights pertaining thereto, are now owned by the Company, and the vesting in the Company of the title, as provided by the statute aforesaid, to the submerged lands along such part of the said boundary line, with the right to fill in and use the same for railroad purposes; and upon the operation by electricity of its tracks and terminals north of Twelfth Street in the said City of Chicago, the Commissioners, subject to the conditions and restrictions herein provided, may construct and maintain viaducts or bridges over the land, rights of way and tracks of the Company on a line produced eastward on all of the east and west streets abutting upon or crossing Michigan Avenue between and inclusive of Randolph Street and Harmon Place in said city; said viaducts or bridges may be of the full width of the respective streets on the line of which they are constructed. The superstructure of each such viaduct or bridge shall be of metal or reinforced concrete, and the lowest point of any such superstructure shall be not less than eighteen (18) feet in the clear above the level of the top of the railroad tracks as now existing at the east and west lines of the Company's right of way at such place or places, and the clearance or clearances of such bridges or viaducts shall in all other respects conform to the clearances of the bridges now existing. All the supports or piers of such viaducts or bridges shall be forty (40) feet apart between centers, requiring four (4) piers or supports in the two hundred (200) feet width of the right of way of the Company, and shall be set at uniform distances from the west side of the Company's right of way and parallel with the Company's tracks.

And the Commissioners may also, at such time, construct and maintain a covering not to exceed fifty (50) feet in width above and over the Company's right of way adjoining and along the west side thereof between Twelfth and Randolph Streets, and a covering not to exceed fifty (50) feet in width adjoining and along the east side of said right of way between Twelfth and Monroe Streets. There shall be a single line of piers or supports for such covering or coverings which shall be set at the uniform distance of forty (40) feet from the side of the Company's right of way along which such covering may extend or be attached, and such piers or supports shall be set between tracks so as to conform with the location of the piers or supports of the bridges or viaducts by this paragraph authorized. The extension of the said covering beyond said line of piers shall be by cantilever or other similar device. The said coverings here intended shall have a clearance above the existing tracks of the Company to conform and correspond with that provided for the bridges or viaducts as hereinabove specified, and which at no point shall be less than eighteen (18) feet. The piers or supports above authorized for the said bridges or viaducts and covering shall not exceed the piers under the existing bridges in Grant Park in size or space occupied. The surface of the said covering may be used for such purposes as the Commissioners may desire, provided such use does not interfere with the use or operation of the Company's tracks and right of way.

IT IS UNDERSTOOD AND AGREED that none of the foregoing provisions in this article contained shall be in force until the said tracks and terminals shall be operated by electricity, as above stated, except, however, that immediately upon the confirmation of the said boundary line along the shore lands now owned by the Company, and the vesting in the Company of the title to said submerged lands at such place or places as aforesaid, the Commissioners may construct and maintain a bridge or viaduct at each of the streets between Jackson Street and Hubbard Place, inclusive, of a width, if constructed at all of the said streets, not to exceed the width of the respective streets extended eastwardly; or, in lieu of the bridges or viaducts authorized at the said several streets between said Jackson Street and Hubbard Place, inclusive, the Commissioners may, at their election, construct and maintain a bridge or viaduct at each of any three or four of said last mentioned streets as they may elect, the total width of such streets, if so consolidated, not to exceed three hundred and thirty (330) feet, and no single bridge to be over one hundred and ten (110) feet in width. Said

bridges shall be of the construction, clearance above the tracks of the Company, and with supports corresponding in size and location to the construction, clearance and supports as above provided for the viaducts and bridges to be constructed over the said Company's right of way in said Grant Park.

PROVIDED, HOWEVER, and the right and authority in this article given the Commissioners is subject to the express condition, restriction and reservation, that no structure, covering, viaduct or bridge shall be constructed or maintained, or any such use made thereof by the Commissioners that will interfere with or prevent the Company's free use and operation of its said tracks for railroad purposes, excepting that the supports or piers mentioned may be located as above stated.

#### ARTICLE VII.

Upon the establishment and confirmation by the final judgment or judgments and decree or decrees in said proceeding or proceedings of the said part of the said dividing and boundary line above described as the permanent dividing and boundary line along and opposite said lands on the shore adjoining the said part of the said public waters, which, together with the riparian rights pertaining thereto, are now owned by the Company, except through the said lands of the City of Chicago, and the vesting in the Company of the lands, rights and interests which it is above agreed shall be vested in it between the said easterly line of its present right of way and the said part of the said dividing and boundary line—the following covenants and agreements in this article contained shall be in force, and the rights mentioned confirmed and established:

(1) The Commissioners shall have, and are hereby given the right, subject to the conditions and requirements herein contained and to the restrictions in this section, to construct and maintain viaducts over the tracks, lands and right of way of said Company, acquired, or to be acquired hereunder, in line with the projection eastward of such east and west streets as said Commissioners may select between Twenty-second Street and Forty-first Street in the said City of Chicago: Provided, however, and it is agreed, that not more than four of such viaducts to each mile longitudinally with the right of way of said Company shall be constructed. The Commissioners shall also have, and are hereby given, the right to construct and maintain viaducts over the said tracks, lands and right of way of the Company in line with the projection eastward of Forty-first Street, Forty-third Street and Forty-seventh Street, in said city. The Commissioners shall not construct any other viaducts over the tracks, lands and right of way of said Company between Twelfth Street and Fifty-first Street, in said city, than those authorized in this and the next paragraph, except with the consent of the Company. The superstructure of each of the viaducts herein authorized shall be of metal or reinforced concrete, and the lowest point of any such superstructure shall be not less than nineteen (19) feet in the clear above the level of the top of the railroad tracks as now existing or hereafter to be constructed. All of the supports or piers for such viaducts shall be not less than forty (40) feet apart between centers, and shall be set at uniform distances from the west side of the Company's right of way and parallel with the Company's tracks, and shall be so arranged as to provide a clear space sufficient for not less than three tracks at any span excepting, however, that at any place or places where the practical construction and operation of the Company's tracks requires a greater width or distance between the piers of any such viaduct or viaducts, such greater width or distance shall be provided by the Commissioners, not in any case, however, to exceed one hundred (100) feet. The piers or supports for such viaduct or viaducts shall not exceed in size or space occupied those authorized for the bridges to be constructed under Article VI hereof. The Commissioners agree that the viaducts herein authorized shall be so constructed as not to interfere with or prevent the construction or use of two double track elevated connecting tracks, one set extending from a connection with what is known as the St. Charles Air Line at or near Sixteenth Street over the main tracks and side tracks of said Company as they now exist or as they may be hereafter reconstructed in connection with the reconstructed station south of Twelfth Street, with a southeasterly curve to its tracks and yards constructed

or to be constructed; and one set extending from a connection with what is known as the Chicago Junction Railway on or near Forty-first Street over the existing main tracks of said Company, with a southeasterly curve to its tracks and yards constructed or to be constructed. The viaducts constructed over any part of said elevated connecting tracks shall have a clearance over said elevated tracks of not less than nineteen (19) feet.

(2) That, in addition to the said viaducts provided to be constructed in the last preceding paragraph, the Commissioners shall have, and are hereby given the right, subject to the conditions and requirements hereinbefore contained, and to the restrictions in this section, to construct and thereafter maintain a boulevard across the right of way, lands and tracks of the Company by a viaduct to be constructed over such tracks, right of way and lands in line with the projection northward of South Park Avenue or eastward of Twenty-second Street in said City of Chicago. The superstructure of such viaduct shall be of metal, and the lowest point thereof shall be not less than nineteen (19) feet in the clear above the level of the top of the present railroad tracks; except, however, and it is expressly agreed, that such viaduct shall be so elevated as to cross with a clearance of not less than nineteen (19) feet the double track connection herein proposed to be constructed from said St. Charles Air Line tracks near Sixteenth Street. The piers or supports for such viaduct shall be so arranged as to provide a clear space sufficient for not less than three (3) tracks at any span, and shall be constructed parallel to the railroad tracks, except where otherwise specially agreed by the parties hereto, and in size and location shall conform, as far as practicable, to the requirements for the other viaducts by this contract authorized.

(3) The said Company shall cause that section of its roadbed lying between the following described east and west lines, namely, the south line of Thirty-first street extended east and the north line of Forty-fifth Street extended east, to be depressed in such manner that the base of the rails of the west and east tracks laid thereon shall not exceed in elevation ten (10) feet above Chicago city datum; and the space between those two tracks shall be crowned sufficiently to afford proper drainage. South of Forty-fifth Street the roadbed shall be so depressed and adjusted that the tracks laid thereon may be connected by suitable gradients with the tracks laid or to be laid at Forty-seventh Street projected east. The elevation of said tracks between said two lines to be as shown on the profile thereof hereto attached and made part hereof.

(4) That, except with the consent of the City Council of the City of Chicago, no building of any dimensions whatever, or for any purpose whatever, shall hereafter be constructed or permitted to be constructed upon the right of way or lands of the Company acquired or to be acquired hereunder, between the south line of Thirty-first Street projected east and the north line of Fifty-first Street, except switch shanties, switch towers and signal towers when necessary and where necessary for the actual operation of the railroad of the Company, which shanties and towers shall not be higher than reasonably necessary for the purposes thereof, and also except waiting rooms, shelters at suburban depots and other buildings and structures for passenger purposes and accommodation.

#### ARTICLE VIII.

Upon the consent of the City Council being obtained as hereinafter provided, and the vacation of the streets and alleys as later in this article provided, and within five (5) years from the date of this contract the Commissioners shall procure title to and hold only for park purposes the tract of land described as follows, to-wit:

Lots 2 to 12, both inclusive, of Johnston and Lafin's subdivision of Lots 1, 2, 3 and part of Lot 4, in Block 23, in fractional Section 15, Addition to Chicago; all being in the City of Chicago, County of Cook and State of Illinois.

And upon the acquisition of the said lands and the granting of said consent and the vacation of said streets and alley, the Company shall, with all reasonable dispatch, remove its Twelfth Street station and office building to land south of a line parallel with and eighty-five (85) feet south of the south line of

Twelfth Street as now established east of Michigan Avenue in said city, and, subject to the restrictions and reservations herein provided, shall dedicate to the Commissioners only for park purposes, the real estate bounded and described as follows, to-wit:

Lots 1, 13 and 14 of Johnston and Laflin's subdivision of Lots 1, 2, 3 and part of Lot 4, in Block 23, in fractional Section 15, Addition to Chicago.

Also, all that strip of land 30 feet wide bounded on the west by said lots and on the east by a line 400 feet east of the west line of Michigan Avenue (being the west line of the Illinois Central Railroad right of way), extending 200 feet south from the south line of Park Row to the north line of Twelfth Street; all being in the City of Chicago, County of Cook and State of Illinois.

Such dedication, however, to contain apt conditions and restrictions whereby no building or structure shall be erected upon either the said last described land dedicated as aforesaid, or upon that next previously described as to be acquired by the Commissioners. The Company shall deliver to the Commissioners possession of the said land, to be dedicated by it within five (5) years after the signing of this instrument, provided that they shall be allowed three (3) years after the acquisition by the Commissioners of the lands to be procured by them, and the granting of said consent by the City Council and the vacation of said streets and alley, which might in that contingency extend the period beyond five (5) years.

Upon the removal of the said station and office building, the Company shall dedicate to the said Commissioners for boulevard purposes, the strip of ground bounded on the west by the east line of Michigan Avenue; on the north by the south line of Twelfth Street as now established east of Michigan Avenue; on the east by the west line of Indiana Avenue; and on the south by a line drawn parallel with and eighty-five (85) feet south of the said line of Twelfth Street, except the part of said strip now occupied by the north and south alley now established across the same, and as to the part of said alley in said strip, the Company consents to its use for such purposes and the Commissioners may construct and perpetually maintain on said strip of ground an approach to the viaduct hereinafter described. The Company shall have and hereby reserves the free use of said boulevard and approach for itself and its patrons, and its and their conveyances in going to and from its station as re-located not inconsistent with boulevard purposes, it being understood that there shall be provided by the Company over said boulevard permanent means of access to and egress from the said proposed station of the Company, as re-located.

IT IS UNDERSTOOD AND AGREED that the Company shall have, and it hereby reserves the right to make and maintain, at its own expense, such use or uses for railroad purposes, under the surface of the property last described, and of the said approach constructed and maintained thereon, as can be made by it without interference with the uses above given to the said Commissioners, or the appearance of the said boulevard or park.

The Commissioners may also, upon the removal of said station and office building, as above provided, and under the conditions, and subject to the restrictions hereinbefore and herein stated, construct and maintain a viaduct over the tracks, right of way and lands of said Company in a line with the projection eastward of said Twelfth Street, with a width of one hundred and eighteen (118) feet, the northerly side of said viaduct to be on a line with the north line of Twelfth Street, as now maintained, extended eastward. The superstructure of said viaduct shall be constructed of metal or reinforced concrete, and the lowest point thereof shall be not less than eighteen (18) feet above the level of the present tracks of said Company, except that the clearance of said viaduct over the Company's approach to what is known as the St. Charles Air Line shall be not less than seventeen (17) feet. The supports or piers for said viaducts shall be set parallel with the tracks and so spaced as to correspond in size and in location with the piers or supports of the bridges or viaducts north of Twelfth Street, and of the covering hereinbefore authorized there, but such piers shall be so arranged as to provide a clear space sufficient for not less than three (3) tracks at any span.

The removal of said station and the dedication and conveyance of the lands by the Company, as in this article provided, shall not be required until the City

Council of said city shall consent to the construction, maintenance and use by the Company of the said passenger station and terminals of the Company in its proposed new location and to a change in the location of the existing bridge of the St. Charles Air Line over Indiana Avenue by moving it a distance not exceeding one hundred fifty (150) feet in either direction, and the construction of an additional connection from a point on the St. Charles Air Line between Michigan Avenue and Indiana Avenue with a southeasterly curve extending to the waylands acquired or to be acquired by the Company and to the building of a bridge over Indiana Avenue and a bridge over the alley north of Sixteenth Street east of Indiana Avenue for the southeasterly connection before mentioned, and to the use by the Company for railroad purposes of the lands situated east of the present tracks of said Company and west of the proposed boundary line; and until the due vacation of the part of Indiana Avenue extending from the north line of Thirteenth Street to the south line of Twelfth Street and that portion of Indiana Avenue at the intersection of Thirteenth Street in the shape of a right angled triangle bounded on the east by the east line of Indiana Avenue, on the north by the north line of Thirteenth Street produced easterly across Indiana Avenue, and on the west by a line drawn from the northwest corner of Indiana Avenue and Thirteenth Street to the point where the south line of Thirteenth Street produced easterly intersects the east line of Indiana Avenue; and also that portion of the alley running north and south between Michigan Avenue and Indiana Avenue extending one hundred and eighty-three (183) feet south of the south line of East Twelfth Street.

#### ARTICLE IX.

In the event that this contract, in so far as it refers to the boundary lines to be established along and opposite the property now owned by the Company, shall not be confirmed by the final judgments or decrees in the said proceedings, then the Commissioners shall be under no obligation to acquire the lands north of Twelfth Street, south of Park Row, and west of the lands of the Company hereinbefore described, and the Company shall be under no obligation to dedicate or convey to the Commissioners its lands north of Twelfth Street, south of Park Row, and west of its tracks hereinbefore described, or to dedicate the lands hereinbefore described abutting on Twelfth Street, for boulevard or other purposes, and the right to construct and maintain a viaduct over its right of way at Twelfth Street upon a continuation of the line of Twelfth Street produced, shall cease and determine, but all of the other provisions of this contract except the preceding article shall nevertheless remain binding and of full effect.

#### ARTICLE X.

The parties hereto hereby mutually covenant and agree that to the extent of their lawful powers, they will do, execute, acknowledge and deliver, or will cause to be done, executed, acknowledged and delivered, all and every such further acts, deeds, transfers and assurances, and that they will from time to time, in addition thereto, in all lawful ways, exercise such powers as they may possess, and cause to be done and performed such things as may be requisite or necessary for the better assuring, conveying and confirming in each of the parties hereto, respectively, all and singular the premises, estates and property included in this instrument and intended to be vested in the parties hereto respectively.

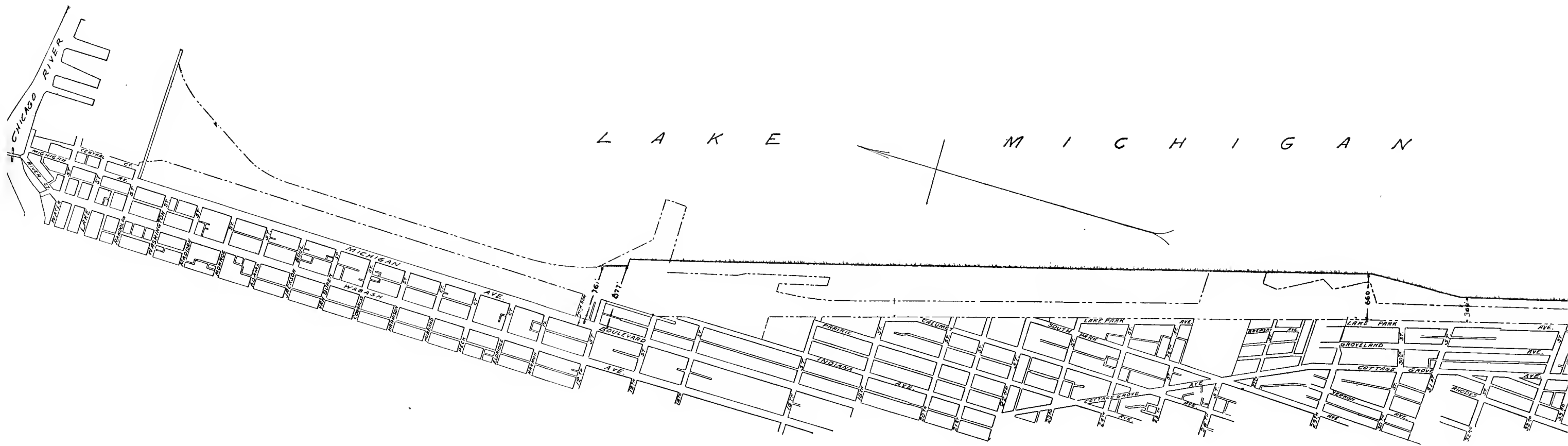
#### ARTICLE XI.

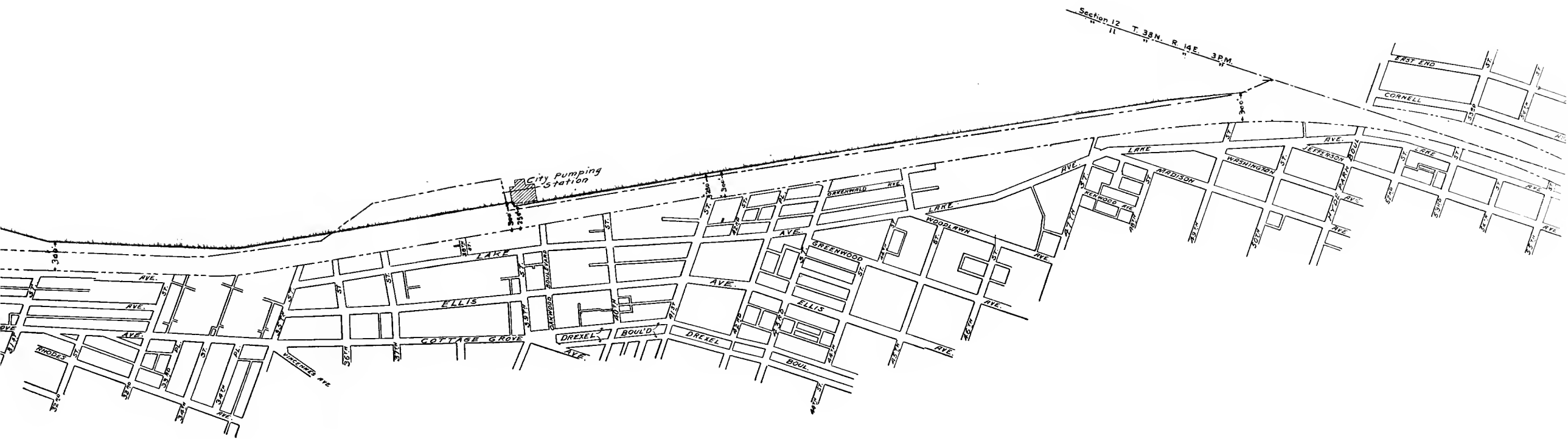
IN WITNESS WHEREOF, the said Commissioners have caused this agreement to be duly executed by the President and Secretary of said South Park Commissioners, and the corporate seal of said South Park Commissioners to be hereunto affixed, and the said Company has caused this agreement to be duly exe-

CHICAGO RIVER

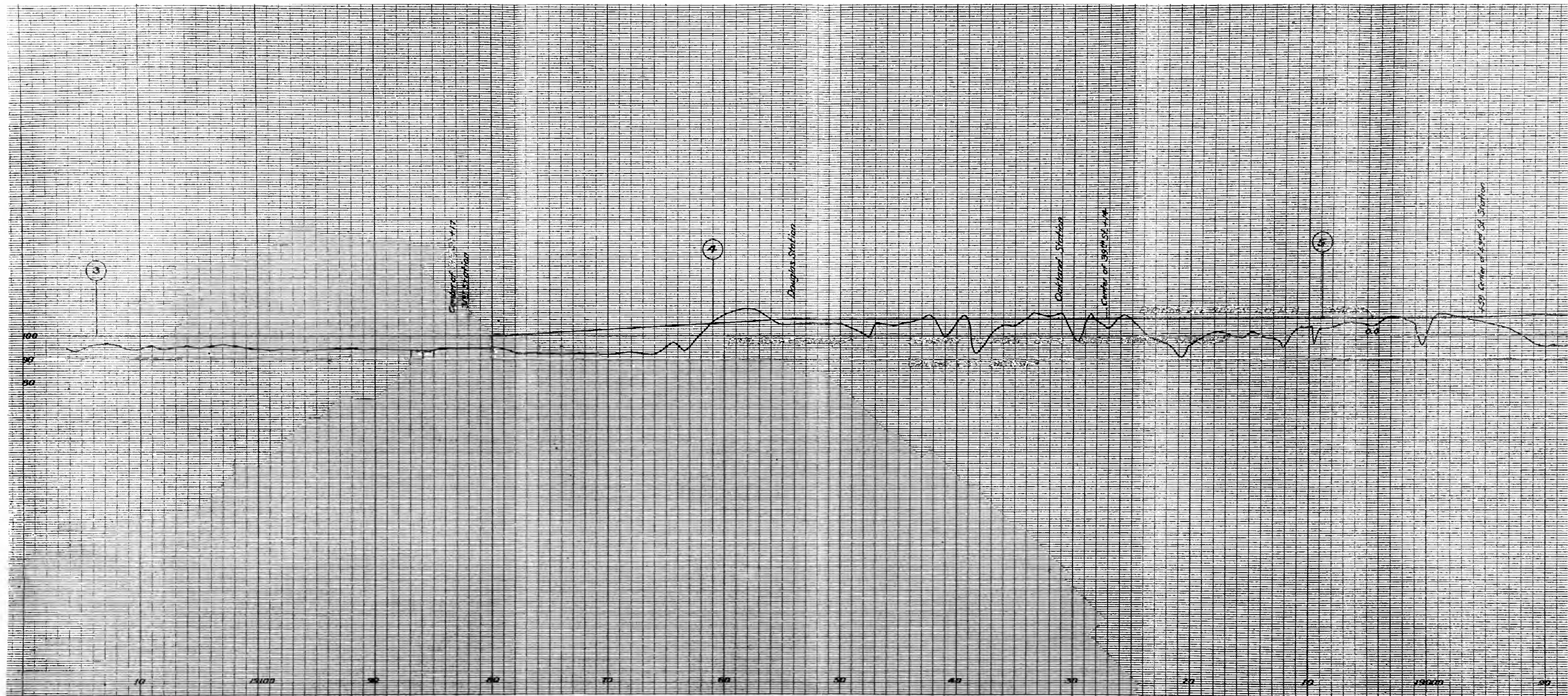
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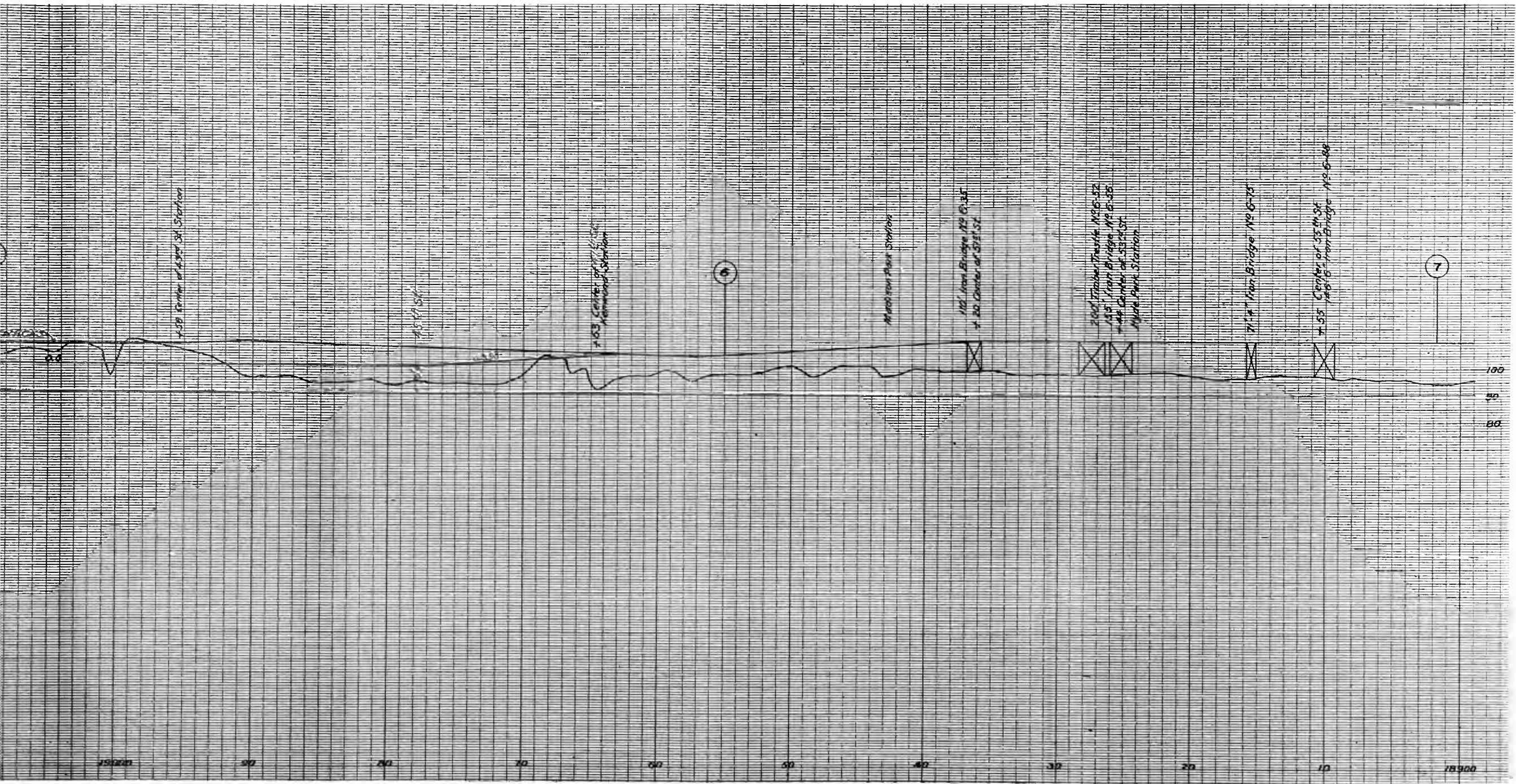












cuted by the President and Secretary of said Company, and its corporate seal to be hereunto affixed, the day and year first above written.

SOUTH PARK COMMISSIONERS,  
By JOHN BARTON PAYNE,  
*President.*

SEAL  
SOUTH PARK COMMISSIONERS,  
COOK COUNTY, ILLINOIS.

Attest:

J. F. NEIL,  
*Secretary.*

ILLINOIS CENTRAL RAILROAD COMPANY,  
By C. H. MARKHAM,  
*President.*

SEAL  
ILLINOIS CENTRAL  
RAILROAD COMPANY.

Attest:

D. R. BURBANK,  
*Secretary.*

### 3. SUPPLEMENTAL AGREEMENT OF JUNE 26, 1912, BETWEEN THE SOUTH PARK COMMISSIONERS AND THE ILLINOIS CENTRAL RAILROAD COMPANY.

THIS AGREEMENT, MADE THIS TWENTY-SIXTH DAY OF JUNE, A. D. 1912, BETWEEN THE SOUTH PARK COMMISSIONERS, A MUNICIPAL CORPORATION CREATED BY THE LAWS OF THE STATE OF ILLINOIS, HEREINAFTER CALLED THE COMMISSIONERS, PARTY OF THE FIRST PART, AND THE ILLINOIS CENTRAL RAILROAD COMPANY, A CORPORATION OF SAID STATE, HEREINAFTER CALLED THE COMPANY, PARTY OF THE SECOND PART, WITNESSETH:

WHEREAS, the Commissioners and the Company heretofore entered into a certain contract dated March 30, A. D. 1912, for the establishment of a boundary line dividing between said Commissioners and the Company the submerged and other lands which extend from the east line of the right of way of said Company into and under the public waters between the termini of the said boundary line described in said contract, and for other purposes, as in said contract set forth, and a petition has been filed according to law in the Circuit Court of Cook County, for the confirmation of said contract, which cause is now pending; and,

WHEREAS, the parties deem it mutually advantageous to agree that upon the confirmation of said contract and the establishment of said boundary line, and without prejudice thereto, certain exchanges of the land thereby allotted shall be made and certain restrictions placed upon the uses to be made by the Company of its property as hereinafter set forth; and,

WHEREAS, in said proceedings pending in the said Circuit Court sundry persons have, according to the statute in such case made and provided, entered their appearance in said court, for the purpose of opposing the confirmation of said contract by said court, but are willing that said contract may be confirmed, provided that the Company covenants to make the conveyances and covenants hereinafter contained;

Therefore, in consideration of the premises and of the benefit to result to each of the parties hereto herefrom, and in further consideration of the said objectors discontinuing their proceedings in said court in opposition to said contract, and upon condition of the establishment and confirmation by the judgment or judgments, or decree or decrees, as finally rendered in said proceeding or proceedings, of the said contract and of the part of the said dividing and boundary line in said contract, dated March 30, 1912, described as the perma-

nent dividing and boundary line along and opposite the lands on the shore adjoining the part of the said public waters in said contract mentioned, which, together with the riparian rights pertaining thereto, are now owned by the Company, and the acquirement by the Company of the part of the submerged, reclaimed, made and penetrating lands and the waters thereon, mentioned in said contract as situate and being on the westerly side of said part of said boundary line, it is covenanted and agreed between the Commissioners and the Company as follows:

#### ARTICLE I.

The Company shall, within thirty (30) days after the establishment and confirmation by the judgment or judgments, or decree or decrees, as finally rendered in said proceeding or proceedings, of the said part of the said dividing and boundary line, and of the acquirement by the Company of the said part of the said submerged, reclaimed, made and penetrating lands aforesaid, convey to the Commissioners, free of all incumbrances, that part of the said lands acquired by the Company under the said contract, or now owned by it, bounded and described as follows:

Beginning at the point at the intersection of the north line of Eighteenth Street, in the City of Chicago, extended east, with the boundary line established in the said contract, and running thence southeasterly in a straight line to intersect the north line of Twenty-ninth street extended east at a point five hundred sixty (560) feet easterly from and measured at right angles to the westerly waylands line of said Company; thence continuing southerly with said straight line three hundred eight (308) feet, more or less, to the intersection with the south line of the bulkhead of said Company produced; thence southerly in a straight line to a point in the north line of Thirty-first street extended east two hundred fifty (250) feet easterly from and measured at right angles to the westerly waylands line of said Company; thence southerly parallel with, and two hundred fifty (250) feet easterly from said westerly waylands line to a point one hundred eighty-five (185) feet northerly from (measured parallel with said westerly waylands line) the center line of Thirty-ninth street extended east; thence easterly parallel with said center line of Thirty-ninth street extended east fifty (50) feet to the aforesaid boundary line; thence northerly with said boundary line to a point in the north line of Thirty-first street extended east three hundred (300) feet from and measured at right angles to the westerly waylands line of said Company; thence northerly with said boundary line to the intersection with the north line of Twenty-ninth street extended east at a point six hundred and sixty (660) feet from said westerly waylands line measured at right angles thereto; thence northerly along and upon said boundary line parallel to said westerly waylands line and six hundred sixty (660) feet therefrom to the intersection with the south line of Twenty-fifth Street extended east; thence northerly along and upon said boundary line to the point of beginning at the north line of Eighteenth Street extended east.

And, at the same time, the Commissioners shall convey to and take such steps as may be necessary, by proceedings in chancery or otherwise, to transfer to the Company the lands bounded and described as follows, to-wit:

Beginning at a point at the intersection of the south line of Twelfth Street, as proposed to be widened by said contract, extended east, and the boundary line established in said contract, said point being nine hundred fifty-seven (957) feet east of the west line of Michigan Avenue; thence southerly with said boundary line thirteen hundred (1300) feet; thence northwesterly at an angle of approximately nine degrees and thirty-six minutes ( $9^{\circ} 36'$ ) with said boundary line three hundred (300) feet; thence parallel to and fifty (50) feet easterly from the said boundary line nine hundred and eighty-six (986) feet, more or less, to the intersection with the said proposed south line of Twelfth Street (as proposed to be widened as aforesaid) extended east; thence westerly with said proposed south line of Twelfth Street fifty (50) feet, more or less, to the point of beginning.

BUT IT IS EXPRESSLY UNDERSTOOD AND AGREED that the failure of the Commissioners to convey and have transferred to the Company the said lands and property last above described shall be wholly independent of and separable from the

other covenants and obligations of this contract and shall not relieve the Company from its obligation to convey to the Commissioners the said lands and property above described to be conveyed by it; the conveyance by the Company to be made independently of the conveyance by the Commissioners and without reference thereto.

## ARTICLE II.

That upon the establishment and confirmation by the judgment or judgments, or decree or decrees, as finally rendered in said proceeding or proceedings, of the said part of said dividing and boundary line in said contract dated March 30, 1912, described as the permanent dividing and boundary line along and opposite said lands on the shore adjoining the said part of the said public waters, which, with the riparian rights pertaining thereto, are now owned by the Company, and the acquirement by the Company of the lands, rights and interests which by the said contract it is agreed shall be vested in it between the easterly line of its present right of way and the said part of the said dividing and boundary line, the following covenants and agreements in this article contained shall be in force and binding upon the parties hereto, and those to claim under them:

(1) The said Company shall cause and hereby covenants that it will cause that section of its roadbed (including both its present land and that to be acquired and held by it under said contract of March 30, 1912), lying between the following described east and west lines, namely, the north line of Thirty-first Street extended east and the south line of Forty-third street extended east, to be depressed in such manner that the base of the rails of the west and east tracks laid thereon shall not exceed in elevation four (4) feet above Chicago city datum; and the space between those two tracks may be crowned sufficiently to afford proper drainage. South of the said south line of said Forty-third Street projected east the said roadbed and right of way of the Company shall be so depressed and adjusted that the tracks laid thereon may be connected by a gradient not exceeding three-tenths of one per cent. with the tracks that may be laid between said north line of Thirty-first Street projected east and the south line of Forty-third street so projected; north of the said north line of said Thirty-first Street projected east the roadbed and right of way shall be so depressed and adjusted that the tracks laid thereon may be connected by a gradient not exceeding three-tenths of one per cent. with the said tracks that may be laid as aforesaid between said north line of Thirty-first street and the south line of Forty-third Street projected east; provided, however, that the Company shall not be required to depress its tracks as hereinbefore in this paragraph agreed, until the City of Chicago, Sanitary District of Chicago or other public or municipal authority having or controlling any sewer or other underground work upon said right of way shall have altered, relaid or relocated such of its sewers and other underground work now located upon said portion of said right of way as may at present interfere with such depression or be endangered, obstructed or disturbed thereby, so as to permit said depression to be carried down to the elevation aforesaid without such interference, obstruction or danger.

(2) In addition to the restrictions provided in the said contract of March 30, 1912, for the use of the right of way and lands of the Company, both those at present owned and those to be acquired by virtue of said contract, the Company further covenants and agrees that no building of any dimensions whatever, or for any purpose whatever, except as hereinafter in this paragraph provided, shall hereafter be erected, constructed or maintained, or permitted to be erected, constructed or maintained, upon any part of that portion of the said right of way or lands of the Company, including those now owned and those to be acquired by virtue of said contract, lying between a line five hundred (500) feet north of the north line of Twenty-ninth street projected east and the north line of Fifty-first Street, and that, except as hereinafter in this paragraph provided, no part of said portion of said right of way south of Thirty-first Street shall be used as a railroad yard, or for the storage of cars, locomotives or equipment, or be put to any use except for the maintenance of railroad tracks and the passage of trains, engines and cars, and there shall not be placed upon any part of the said portion of said railroad and right of way lying between the said line five hundred (500)

feet north of the north line of Twenty-ninth Street projected east and the north line of Fifty-first street any advertising signs or other obstructions to the view of adjacent property or lands, except to the extent necessary for the approach to the elevated connecting track on or near Forty-first Street and as may be required in the maintenance of said tracks and in the operation thereof under the requirements of the laws of the State of Illinois or the ordinances of the City of Chicago; provided, that the restrictions in this paragraph contained shall not be held to interfere with the erection and construction of switch shanties, switch towers, signal structures and electrical construction, when and where necessary for the actual operation of the railroad of the Company, nor with the location and construction, at convenient and appropriate places, of waiting rooms, shelters at suburban depots, and other buildings and structures to be devoted solely to passenger service and accommodations; and, provided further, that no such shanty, tower, structure, construction, waiting room, shelter, or other building or structure shall be higher than reasonably necessary for the purposes thereof; and, provided further, that whenever the character of the occupancy of the district west of and bordering upon the right of way or street adjacent thereto, between a line five hundred (500) feet north of the north line of Twenty-ninth Street and the north line of Thirty-first Street, shall change from a residence or dwelling neighborhood to an industrial neighborhood, then the Company may, with the consent of the City Council of the City of Chicago, but not otherwise, erect a building or buildings, upon the said portion north of the north line of Thirty-first Street, at such place or places, and under such restrictions, as may be permitted by the said City Council of Chicago. But it is understood and agreed that nothing in this paragraph contained shall prevent the Company from using the west fifty (50) feet of its said railroad and right of way between the north line of Forty-first Street and the south line of Forty-third Street now used for team tracks and terminal facilities, for such purposes, nor from using the part of its present two hundred (200) feet right of way between Forty-ninth Street and Fifty-first Street and its property on the east side thereof now used for team tracks and terminal facilities, for such purposes, nor from erecting any building required in the operation of its railroad upon its property between Forty-ninth and Fifty-first Streets lying east of said two hundred (200) feet right of way.

(3) The Company further covenants and agrees that as to that part or portion of the land now owned by it or to be acquired by it under the said contract dated March 30, 1912 (except that part thereof to be reconveyed by the Company as by this contract provided), lying between the north line of Forty-first Street projected east and the north line of Thirty-first Street, projected east, and east of a line drawn parallel with and two hundred (200) feet easterly from the present westerly waylands line of the Company, and as to that part or portion of the land now owned by it or so to be acquired lying between the said north line of Forty-first Street projected east and the north line of Forty-ninth street so projected, and east of a line drawn parallel with and two hundred fifty (250) feet easterly from the said westerly waylands line as now established, no locomotive, engine, train or car shall at any time be run, operated or moved except by a motive power other than steam, provided that whenever the Company shall have made provision to arrange, and shall in good faith enter upon the arrangement of, at least four of its tracks of railway extending over the entire distance between said north line of Thirty-first street projected east and the north line of Forty-ninth Street projected east and to be used for the passage of trains for the operation regularly thereon of cars and trains by a motive power other than steam, then it may run, operate or move locomotives, engines, trains or cars over said land lying east of said lines above described in this paragraph as parallel with said westerly waylands line, provided only that the Company shall, in such case, proceed with all due diligence and dispatch to make said change and to regularly use upon said four tracks a motive power other than steam; but if the Company fails to proceed with all due diligence and dispatch as aforesaid or fails to regularly use upon said four tracks a motive power other than steam as aforesaid, then its right to run, operate or move locomotives, engines, trains or cars over said land lying east of said lines above described shall, while the Company so fails, cease.



(4) That, in addition to the viaducts which the Commissioners are given authority to construct and maintain, under the provisions of Article VII of said contract dated March 30, 1912, the Commissioners and the City of Chicago, and each, or either of them, are and is hereby authorized and expressly given the right by the Company to construct and maintain viaducts over the tracks, lands and rights of way of the Company at present owned or acquired or to be acquired by the Company, under said contract, and not reconveyed as herein provided, in line with the projection eastward of any east and west streets between and including Twenty-second Street and Forty-ninth Street, in the City of Chicago, but subject to the provisions and restrictions in said Article VII contained as to character of the superstructure, the height thereof above the top of the railroad tracks, the location and distance apart of the supports or piers, the clearance to be provided at each span, the size or space to be occupied by such supports or piers, and the like, it being the intention hereof that as to the additional viaducts herein authorized, they shall be constructed and maintained under the same conditions and provisions as are contained in the said Article VII in relation to the viaducts therein authorized. It is understood and agreed that the Company shall not demand or receive any compensation because of the construction or maintenance of the said viaducts, as aforesaid, across its said right of way and lands, but it is understood and agreed that any such viaducts shall be so constructed as not to interfere with the said Company in the operation and use of its said railroad.

(5) That the City of Chicago, and the Commissioners, and each or either of them, are hereby authorized and expressly given the right by the Company to construct and maintain a subway under the tracks and railroad constructed and to be constructed upon the right of way and lands of the Company now owned or to be acquired under the said contract of March 30, 1912 (except that part thereof to be reconveyed by the Company as by this contract provided), on a line with Eighteenth Street projected east; provided, however, that such subway shall be so constructed and maintained as not to interfere with the said Company in the operation and use of its said railroad and tracks.

(6) The Company covenants and agrees that the Commissioners and City of Chicago, and each or either of them, shall at all times have the power and authority, by themselves or the agents or contractors of either of them, to lay, construct and maintain sewer pipes, water pipes, gas pipes and other conduits transversely across the right of way of the Company, provided that such pipes and conduits shall be located at such appropriate places as may be selected, from time to time, as will not interfere with the use of the lands of the Company for railroad purposes, and subject to such use.

(7) Nothing in said contract dated March 30, 1912, or in this contract contained, shall be construed to deprive the City of Chicago of any of its police powers, or of its right at any and all times hereafter to pass all necessary or reasonable lawful police regulations concerning the construction, maintenance, use and operation of the part of the Company's property between Twelfth and Fifty-first Streets (both that now owned and that hereafter acquired under said contracts), all of which powers and rights shall be held to be expressly granted to the City of Chicago by this contract.

(8) IT IS UNDERSTOOD AND AGREED that none of the rights or claims of the City of Chicago, under any ordinances of said city or any previous contract, are to be deemed waived, released or surrendered by the said contract dated March 30, 1912, or by this contract, or by any action taken pursuant to said contracts, unless such right or claim should be expressly in conflict therewith.

### ARTICLE III.

That whenever an ordinance shall be passed by the City Council of the City of Chicago and accepted or acted upon by the Company, permitting the Company to remove its Twelfth Street station and office building south of a line drawn parallel with and eighty-five (85) feet south of the south line of Twelfth Street (east of Michigan avenue) as now established, as contemplated in said contract of March 30, 1912, the following covenants shall be in force and are hereby agreed to:

(1) The Company will, and hereby covenants and agrees that whenever the City of Chicago shall pass an ordinance to widen, and shall take the necessary steps to widen, Indiana Avenue between Sixteenth Street and Thirteenth Street to a width of one hundred (100) feet, it (said Company) will (without cost or expense to said city) dedicate sufficient land along the easterly side of the part of said Indiana Avenue as now established between the north line of the property owned by the Michigan Central Railroad Company (which line is approximately two hundred seventy-six (276) feet north of the north line of Sixteenth Street) and the north line of Thirteenth Street to make Indiana Avenue a public street of the width of not less than one hundred (100) feet throughout the entire distance between said lines; and that when said Indiana Avenue between Thirteenth and Sixteenth Streets is widened as herein proposed and the City of Chicago shall have commenced condemnation proceedings to obtain the necessary land lying immediately south of and between the said lands to be dedicated by the Company for such purpose and Sixteenth Street, so as to make said Indiana Avenue between said Thirteenth and Sixteenth Streets of the uniform width of one hundred feet, the said Company hereby further agrees not to contest such condemnation proceedings and shall pay its assessable proportion as an owner of property benefited by said improvement, of the cost of securing such further lands between the said land to be dedicated by the Company and said north line of Sixteenth Street, and further agrees not to interpose in such proceeding the contention that by reason of its dedication of its said lands as aforesaid, for said purpose, it shall not be liable for any part of the cost incurred by the city in securing the said lands south of the lands so dedicated by the Company.

(2) The Company will and hereby covenants and agrees to grant and dedicate (without cost or expense to said city) sufficient land for the relocation of Indiana Avenue between the north line of Thirteenth Street and the south line of Twelfth Street as widened as a continuous public street not less than one hundred (100) feet in width, provided the City of Chicago shall relocate said street as in this paragraph provided and consent to the vacation and shall vacate such parts of Indiana Avenue as are now located north of Thirteenth Street and south of the south line of Twelfth Street as proposed to be widened as shall not be required for said Indiana Avenue as relocated; and, provided further, that Indiana Avenue, as widened pursuant to the provisions of this paragraph, shall be a direct and continuous public street from the portion thereof lying immediately south of the south line of Thirteenth Street to the south line of Twelfth Street as widened, but said Indiana Avenue as relocated shall connect with said Twelfth Street as widened, so that the west line of said Indiana Avenue as relocated shall intersect and thence proceed northwardly along the west line of the alley between Michigan Avenue and Indiana Avenue in the block between said Twelfth and Thirteenth Streets. When Indiana Avenue shall be so widened and relocated the station of the Company at Twelfth street shall be located east of Indiana Avenue.

(3) Whenever the Commissioners shall have procured title to and hold for park purposes the tract of land as follows, to-wit: Lots two (2) to twelve (12), both inclusive, of Johnson & Laffin's Subdivision of Lots one (1), two (2), three (3) and part of Lot four (4), in Block twenty-three (23) in Fractional Section fifteen (15), Addition to Chicago, all being in the City of Chicago, County of Cook, and State of Illinois, as provided in said contract of March 30, 1912, the Company shall and hereby covenants that upon the performance of the following conditions and provisos in this paragraph contained, it will dedicate (without cost or expense to the City of Chicago or the Commissioners) the west forty (40) feet of the property owned by it, or held for its benefit, and adjacent to and east of Michigan Avenue and south of Twelfth Street, in said block between Twelfth and Thirteenth Streets, for the widening of Michigan Avenue between said streets, provided that the Commissioners, or other proper public body, shall, within three (3) years from this date, in good faith begin proceedings to condemn or acquire the forty (40) feet east of and adjoining Michigan Avenue and south of the said forty (40) feet owned or held by the Company in said block and north of the north line of Thirteenth Street, for and as a part of Michigan Avenue as widened, and shall, within five (5) years, have finally



elected to take or acquire in such condemnation proceeding or proceedings said strip south of the said forty (40) feet owned or held by the Company, or shall have otherwise acquired said strip.

#### ARTICLE IV.

The Company expressly covenants and agrees that the provisions, obligations, requirements and restrictions in this contract provided for shall at all times be operative and are entered into for the benefit of the City of Chicago as well as the Commissioners, and may at all times be enforced according to their terms by the City of Chicago, or the Commissioners, or both.

#### ARTICLE V.

The Company for further assurance hereby covenants and agrees to secure all consents and releases that may be required from any mortgagee or trustee of its property to make the conveyances and dedications it is by this contract obligated to make, fully effectual, and free of all incumbrances.

#### ARTICLE VI.

IT IS UNDERSTOOD AND AGREED that this contract shall be without prejudice to the said contract of March 30, 1912, and that said contract shall remain unimpaired by this agreement; it being the intention hereof and agreed that only upon the said contract being established and confirmed as made, the provisions hereof shall be in force and have effect, in addition to the provisions of the said contract, but not otherwise.

IN WITNESS WHEREOF, the said Commissioners have caused this agreement to be duly executed by the President and Secretary of said South Park Commissioners and the corporate seal of said South Park Commissioners to be hereunto affixed, and the said Company has caused this agreement to be duly executed by the President and Secretary of said Company, and its corporate seal to be hereunto affixed, the day and year first above written.

SOUTH PARK COMMISSIONERS,

By JOHN BARTON PAYNE,

*Its President.*

Attest:

J. F. NEIL,  
*Secretary.*

ILLINOIS CENTRAL RAILROAD COMPANY,

By C. H. MARKHAM,

*Its President.*

Attest:

D. R. BURBANK,  
*Secretary.*

## 4. FINAL DECREE OF JUDGE HONORE, JULY 10, 1912.

STATE OF ILLINOIS, }  
COUNTY OF COOK. } ss.

## IN THE CIRCUIT COURT OF COOK COUNTY.

In the matter of the Petition of the South Park Commissioners praying that the boundary line fixed by an agreement between the South Park Commissioners and the Illinois Central Railroad Company be confirmed, and that the boundary line between the lands to be acquired by the defendant, the Illinois Central Railroad Company, and the lands to be acquired by your petitioner under said contract be established and confirmed.

This day comes the South Park Commissioners, the petitioner in the above entitled cause, and it appearing to the court that the following defendants and each of them were duly and legally served with process in this cause by personal service, in accordance with the requirements of the statute in such case made and provided, more than ten (10) days before the first day of this present June term, A. D. 1912, of this court, viz., Florence Ann D. Reed, Mrs. Fred L. Fake, William H. Gardner, George A. Gardner, Helen M. Sloat, George W. Sloat, Allie M. Rogers, Ernest J. Rogers, William H. Wells, Jr., and Frances B. Wells.

And also it appearing to the court that the following defendants and each of them were duly and legally served with process in this cause by publication, in accordance with the requirements of the statute in such case made and provided, the last publication being not more than twenty (20) days nor less than ten days prior to the first day of the May term, A. D. 1912, of this court, viz., Lewis W. Kilbourn, Orpha J. Kilbourn, James S. Kilbourn, heirs and devisees of Ellen A. Kilbourn, deceased; Joseph S. Reed, Florence A. D. Reid, Joseph S. Reid, Effie R. Fake, Winnifred S. Reed, Mary Florence Reed, heirs and devisees of John Y. Scammon and Arianna E. Scammon, deceased; Cynthia Fuller, devisee of Thomas Brock Fuller, deceased; Almira H. Gardner, Mary G. Brainerd, Harry J. Brainerd, Jessie S. Gardner, heirs of Samuel S. Gardner, deceased; Mary G. Gardner, Jennie L. Gardner, Flora M. Gardner, heirs and devisees of Daniel G. Gardner, deceased; unknown heirs and devisees of S. Newton Dexter, deceased; unknown heirs and devisees of Stephen Bronson, Jr., deceased; unknown heirs and devisees of Belden F. Culver, deceased; Sarah E. Wells, Lydia N. Wells, George G. Wells, heirs and devisees of William Harvey Wells, deceased; unknown heirs and devisees of Mary A. Clark, deceased; unknown heirs and devisees of John F. Seaman, deceased; unknown heirs and devisees of Augustus M. Herrington, deceased; unknown heirs and devisees of Abby Ford, deceased; unknown heirs and devisees of S. G. Pope, individually and as trustee, deceased; unknown heirs and devisees of Amanda Acker, deceased; unknown heirs and devisees of William P. Kilbourn, deceased; unknown heirs and devisees of Martha P. Wells, deceased; and all persons made defendant to said petition by the name and style of "unknown owners," and all persons made defendant to said petition by the name and style of "all persons whom it may concern."

And that neither nor any of said defendants has appeared in this cause, nor filed any answer or other pleading herein, and for want of such appearance, by order of court heretofore entered herein, said petition has been taken pro confesso as against said defendants and each of them, and the court doth hereby order and decree that said petition be taken pro confesso against said above named defendants and each of them for want of appearance or answer herein.

And it further appearing to the court that a disclaimer has been filed in this cause in and by which the defendants next hereinafter named disclaim any interest in said litigation or any right, title or interest in and to the subject

matter thereof, namely: Matilda Splegel, Albert Liebenstein, Jennie Freudenthal, Ella Fox, Julia Mayer, formerly Julia Liebenstein, heirs and devisees of Joseph Liebenstein and Lena Liebenstein, deceased; also Bernard Mayer, Leo Fox, Joseph Splegel, Rose Liebenstein and John Freudenthal.

It is further ordered by the court that said petition be taken pro confesso against the unknown heirs and devisees of Mabel A. Buchanan, deceased; the unknown heirs and devisees of John R. Buchanan, deceased, and against Lena Liebenstein, said parties having also been duly served by publication herein and having failed to appear or to plead to said petition.

And it further appearing to the court that the defendants Allen B. Pond, Lessing Rosenthal, Joseph Cummins, Robert Catherwood, Chas. E. Merriam, Thomas W. Swan and F. Bruce Johnstone heretofore entered their appearance herein as legal voters and taxpayers within the district and territory in which the property for the maintenance of the park system under the control of the South Park Commissioners is taxable, for the purpose of objecting to the confirmation of the said contract, dated the 30th day of March, 1912, in their own proper persons and by Messrs. Rosenthal & Hamill, Joseph S. Cummins, Robert Catherwood, Thomas W. Swan and F. B. Johnstone, their solicitors, and, pursuant to the order of court and the statute in such case made and provided, were made parties defendant in these proceedings.

And it further appearing that on June 27, 1912, the said Allen B. Pond, Lessing Rosenthal, Joseph Cummins, Robert Catherwood, Chas. E. Merriam, Thomas W. Swan and F. Bruce Johnstone appeared in open court, by their said solicitors, and, for reason then stated by them in open court discontinued their proceedings in this court in opposition to the confirmation of said contract of March 30, 1912, and that the said named persons have ever since the 26th day of June, 1912, discontinued their proceedings in this court in opposition to said contract, and now in open court withdraw their appearances herein, and also comes the Chicago Association of Commerce, by Messrs. Defrees, Buckingham, Ritter & Eaton, their solicitors, and for reason stated in open court now withdraw its appearance herein, and the defendant George A. Hyers having in open court stipulated to adopt the answer of Henry W. Lee as and for his answer to the petition in said case and the court having ordered that the answer of said Henry W. Lee stand as and for and on behalf of George A. Hyers, said Lee consenting thereto; also, the defendants, Maclay Hoyne and the City of Chicago, having appeared in open court by William H. Sexton, their counsel, and entered a motion for leave to withdraw their respective appearances and answer filed in said cause, and the court having granted the motion heretofore, and entered an order allowing such withdrawal, said City of Chicago and said Maclay Hoyne are no longer to be deemed defendants to said petition.

And it appearing to the court, also, that Arend Van Vlissingen filed a demurrer to the petition herein, which demurrer the court overruled, and said Van Vlissingen having in open court announced his election to stand by his demurrer, said petition is as against said Van Vlissingen hereby ordered taken pro confesso.

And it further appearing to the court that the defendants Clark S. Reed and Fred L. Fake filed their joint plea and answer herein and subsequently filed their written consent and stipulation, signed by each of them personally, that said plea and answer be withdrawn and consenting that a decree may be entered herein in accordance with the prayer of the petition.

It further appearing to the court that the defendants, the United States Trust Company of New York, a corporation, and the Guaranty Trust Company of New York, a corporation, Samuel R. Buchanan, Stewart H. Buchanan, Mary Buchanan, Elizabeth R. Dupee, formerly Elizabeth R. Buchanan, John R. Buchanan, Walter Buchanan, Katherine R. Spencer, formerly Catherine R. Buchanan, James O. R. Buchanan, Mable R. Buchanan, Mrs. H. B. Swift and William H. R. Buchanan, otherwise known as W. Hume R. Buchanan, and Robert R. Buchanan, heirs and devisees of said John S. Buchanan, deceased, and said John R. Buchanan, deceased; also Marie L. Meeker, Margaret Meeker Cook, David S. Cook, Jr., Louise Meeker Walker, James R. Walker and Arthur Walker, heirs and devisees of Arthur B. Meeker, deceased, and each of them, entered their appearance

herein and filed their consents in writing that a decree may be entered in accordance with the prayer of the petition herein.

And thereupon said cause coming on to be heard upon the petition of the South Park Commissioners, and the several answers thereto of the Illinois Central Railroad Company, Henry W. Lee and George A. Hyers, defendants, and the replications of said petitioner to each of said answers, and upon the proofs, oral, written and documentary, heard and offered in said cause, which proofs the court hereby orders to be reduced to writing and filed herein together with all exhibits and documentary proof within thirty (30) days from this date, same to be certified by the court as the evidence upon which this decree is based, and the court having considered said evidence and having heard the arguments of counsel, and being now fully advised in the premises, does find, order, adjudge and decree:

1. That it has jurisdiction of the subject matter and of all of the parties above named, petitioner and defendants, to the said petition.

2. That all of the material allegations of the petition in this case filed, are true; that the equities of this case are with the petitioner, and that the petitioner is entitled to the relief in and by said petition prayed.

3. The court doth find from the evidence and doth adjudge and decree, that the South Park Commissioners is a public municipal corporation, as in said petition alleged, and that John Barton Payne, Joseph Donnersberger, Henry G. Foreman, Charles L. Hutchinson and Edward Tilden are the duly appointed and acting park commissioners and constitute the South Park Commissioners.

4. That the said South Park Commissioners has control over two separate public parks, namely, Grant Park and Jackson Park, which are within the City of Chicago and are of the location and area in said petition described: That the same and each of them border upon the shore and the public waters of Lake Michigan and are situated within the County of Cook and State of Illinois.

5. That under the laws of the State of Illinois, said South Park Commissioners has power to connect said Grant Park and said Jackson Park by constructing a boulevard, driveway or parkway, extending over and upon the bed of said public waters of Lake Michigan, over and upon the lands penetrating into said waters. That said South Park Commissioners propose and intend to construct such boulevard, driveway or parkway, extending over such public waters and penetrating lands, for the purpose of connecting said Grant Park and Jackson Park.

6. That the Illinois Central Railroad Company is a corporation organized and existing under the laws of the State of Illinois, and is the owner of all the shore lands and riparian rights thereto appurtenant, upon and along the shores of Lake Michigan, extending the entire distance from the south line of Lake Park Place produced east to the north line of Forty-ninth Street extended east, in said City of Chicago, except two certain pieces of property located on the shore (one of which is owned by the City of Chicago), mentioned in the exception contained in the next succeeding paragraph hereof.

7. It is therefore, ordered, adjudged and decreed by the court that the agreement made and entered into between the petitioner, the South Park Commissioners, and the Illinois Central Railroad Company, defendant, and bearing date the 30th day of March, A. D. 1912, which is alleged and set forth in the petition of the South Park Commissioners filed herein, a copy of which agreement is attached to said petition as "Exhibit A," be and the same is hereby confirmed, and the court doth hereby order, adjudge and decree that the permanent boundary line dividing the submerged and other lands and rights to be acquired, taken, owned and used by the petitioner, the South Park Commissioners, and the submerged and other lands and rights to be acquired, taken, owned and used by the Illinois Central Railroad Company (in lieu of, and as compensation for, the release of said riparian rights and of part of said penetrating lands to the commissioners, as hereinafter provided), be and the same is hereby established and confirmed as follows:

Commencing at a point in the south line of said Lake Park Place produced east, that is seven hundred and sixty-one (761) feet east of the west line of Michigan Avenue, and extending thus southeasterly in a straight line to intersect with the proposed south line of Twelfth Street Boulevard (extended east)

at a point eight hundred and seventy-seven (877) feet east of the west line of Michigan Avenue, thence east eighty (80) feet; thence southeasterly in a straight line to intersect with the south line of Twenty-fifth Street (extended east) at a point six hundred and sixty (660) feet easterly from, measured at right angles to, the westerly line of the company's waylands as now established; thence southeasterly in a straight line parallel to and six hundred and sixty (660) feet from said westerly waylands line to intersect with the north line of Twenty-ninth Street, extended east; thence southeasterly in a straight line to intersect with the north line of Thirty-first Street, extended east, at a point three hundred (300) feet easterly from, measured at right angles to said westerly waylands line; then southeasterly parallel to and three hundred (300) feet easterly from said westerly waylands line to intersect with the north line of Thirty-ninth Street, extended east; thence west along said north line fifty (50) feet; thence southeasterly parallel to and two hundred and fifty (250) feet easterly from said westerly waylands line to intersect with the eastern line of Forty-first Street extended east; thence continuing southeasterly on a line parallel to and three hundred (300) feet easterly from the company's westerly waylands line as now established to intersect with the north line of Forty-ninth Street, extended east, which said line with its courses and distances, is shown in red on plat attached to said petition and made part thereof, excepting from the above described line a part and portion thereof (in front of the shore lands not owned or claimed by said Illinois Central Railroad Company), as follows, viz.: That portion adjacent to the land described as that part lying east of the west line of the right of way of the Illinois Central Railroad Company, of the northeast fractional quarter (N. E. fr.  $\frac{1}{4}$ ) (except the south 8.70 chains thereof) of Section Twenty-seven (27), Township Thirty-nine (39) north, Range Fourteen (14) east of the third (3rd) principal meridian, and except a parcel of land three hundred (300) feet in width situated along and upon either side of the eastwardly extension of Thirty-ninth Street (formerly known as Egan Avenue), being that parcel conveyed to the City of Chicago by the Illinois Central Railroad Company by quitclaim deed dated August 17, 1898.

8. That the said Park Commissioners and said Illinois Central Railroad Company, a riparian owner, have agreed upon a boundary line dividing the submerged lands acquired or to be acquired by said Park Commissioners, and the submerged lands to be taken, owned and used by said riparian owner in lieu of and as compensation for the release of said riparian rights to said Park Commissioners, as last above set forth in and described in the petition herein; that the agreement for such purpose was duly made and entered into between said South Park Commissioners and said Illinois Central Railroad Company, and is the agreement described in the petition filed herein.

The court further finds that the submerged and other lands to be taken by the said Illinois Central Railroad Company, as said shore owner, under the said agreement, in lieu of and as compensation for the release of its said riparian rights, do not exceed in amount or value the fair equivalent of said rights so to be released.

9. The court doth further find from the evidence in this case and doth accordingly adjudge and decree that in and by said agreement the rights and interests of the public have been duly conserved and that said agreement is in all respects, a fair, equitable and reasonable agreement concerning the subject matter thereof.

10. It is further ordered that each of the parties hereto shall pay its own costs in this proceeding and that none of said parties has any recovery against either of the others on account of the costs.\*

ENTER:

(Signed) L. HONORE,  
Judge of the Circuit Court of Cook County.

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\*An appeal from the decision of Judge Honore was taken.

## APPENDIX I.

1. SUNDRY DATA,—CORRESPONDENCE WITH CONGRESSMAN JAMES R. MANN RELATIVE TO DUMPING IN LAKE MICHIGAN.
2. ACT OF THE FEDERAL CONGRESS PROHIBITING DUMPING WITHIN EIGHT MILES OF THE SHORE.

A short time after the appointment of the Lake Shore Reclamation Commission, the writer suggested to Congressman James R. Mann that some action should be taken by the Federal Government to prevent the general use of the great lakes for sewage disposal by the several municipalities lying thereon, one of the greatest offenders in this regard being the City of Buffalo, whose sewage has not only poisoned the waters of Niagara Falls, but has even affected the scenic beauty of that greatest of the world's wonders. The same subject was discussed by the writer with Mayor Harrison, but no official action has ever been taken by Chicago with reference thereto.

The following correspondence bearing upon the condition at Chicago is of interest:

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON  
INTERSTATE AND FOREIGN COMMERCE,  
WASHINGTON, D. C.

CHICAGO, September 3, 1910.

*Hon. Theodore K. Long, Chairman Lake Shore Reclamation Commission, Chicago.*

MY DEAR SIR:—About 1,000 tons or so of refuse matter is towed out of the Chicago River every day and dumped into Lake Michigan. This was formerly dumped near the shore and was stirred up by the storms. Application to the War Department to prevent "close in" dumping was unavailing, and last winter, in connection with Mayor Busse and Dr. Evans, Commissioner of Health, and William A. Bond and others of the Association of Commerce, I took up the question of preventing the dumping of such refuse matter where it might contaminate our water supply by passing a law through Congress.

The conclusion was reached that refuse material ought not to be dumped in the lake near Chicago in less than sixty feet of water (below wave action) about eight miles from shore, and I accordingly prepared a bill which I introduced in Congress, which, after considerable opposition on various grounds, passed and became a law. As the matter is one of extreme importance to Chicago I beg to inclose to you copy of the law.

The inquiry occurs to me, whether we ought not to prevent the dumping of any refuse material whatever in the lake, the source of our water supply? If you have any special views on the subject, I will be glad to hear from you.

Yours most truly,

JAMES R. MANN,  
*Member of Congress, Second District, Illinois,  
164 Dearborn Street, Chicago.*

September 14, 1910.

*Hon. James R. Mann, Member of Congress, 164 Dearborn Street, City.*

MY DEAR CONGRESSMAN:—Replying to your favor of September 3rd, *re* dumping in the lake, I beg to say that I am radically opposed to the dumping of any refuse material whatever in the lake. It seems, indeed, bad enough that we are obliged to keep up a running fight against the local scavengers who persist in befouling the waters of the lake, and certainly the United States Government ought not to offend in this manner. Of course, I suppose that if the dumping scows were taken out far enough into the lake the evil effects therefrom would be greatly minimized, but they cannot be entirely removed. The only way, in my opinion, to get proper results is to shut off dumping entirely, and I trust this result may in some way or other be brought about.

Thanking you for bringing this matter to my attention, I beg to remain,

Yours very truly,

THEODORE K. LONG.

(Public—No. 245.)

(H. R. 18700.)

AN ACT TO PREVENT THE DUMPING OF REFUSE MATERIAL IN LAKE MICHIGAN AT OR NEAR CHICAGO.

*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That it shall not be lawful to throw, discharge, dump, or deposit, or cause, suffer, or procure, to be thrown, discharged, dumped, or deposited, any refuse matter of any kind or description whatever other than that flowing from streets and sewers and passing therefrom in a liquid state into Lake Michigan, at any point opposite or in front of the County of Cook, in the State of Illinois, or the County of Lake, in the State of Indiana, within eight miles from the shore of said lake, unless said material shall be placed inside of a breakwater so arranged as not to permit the escape of such refuse material into the body of the lake and cause contamination thereof; and no officer of the Government shall dump or cause or authorize to be dumped any material contrary to the provisions of this Act: *Provided, however,* That the provisions of this Act shall not apply to work in connection with the construction, repair, and protection of breakwaters and other structures built in aid of navigation, or for the purpose of obtaining water supply. Any person violating any provision of this Act shall be guilty of a misdemeanor, and on conviction thereof shall be fined for each offense not exceeding one thousand dollars.

*Approved June 23, 1910.*

## APPENDIX J.

## MISCELLANEOUS CORRESPONDENCE.

1. LETTER OF CORPORATION COUNSEL, DECEMBER 15, 1909, RELATIVE TO "MADE LANDS" BETWEEN TWENTY-FOURTH AND TWENTY-SIXTH STREETS.
2. LETTER TO HENRY G. FOREMAN, APRIL 27, 1910, CHAIRMAN OF THE SOUTH PARK COMMISSIONERS, RELATIVE TO LAKE SHORE SUITS THEN PENDING.
3. LETTER TO CORPORATION COUNSEL BRUNDAGE JUNE 8, 1910, RELATIVE TO PULLMAN CLAIM.
4. LETTER TO CORPORATION COUNSEL JULY 20, 1910, RELATIVE TO FILLING MORGAN SHOAL.
5. LETTER TO CORPORATION COUNSEL, OCTOBER 17, 1911, RELATIVE TO CHICAGO BEACH HOTEL CLAIM.
6. LETTER FROM E. A. POTTER, JANUARY 26, 1912, RELATIVE TO THE AGREEMENT OF DECEMBER 11, 1911, BETWEEN THE SOUTH PARK COMMISSIONERS AND THE ILLINOIS CENTRAL RAILROAD COMPANY.

No. 1.

December 15, 1909.

IN RE RIGHTS OF CITY IN "MADE" LAND ON LAKE FRONT, EAST OF I. C. R. R. RIGHT OF WAY, BETWEEN TWENTY-FOURTH AND TWENTY-SIXTH STREETS.

*Hon. John J. Hanberg, Commissioner of Public Works.*

DEAR SIR:—Your favor of December 10, 1909, in relation to above subject, was duly received. The documents enclosed therewith are herewith returned.

From these documents it appears that a police detail of three men had been stationed for three months on the "made" land, east of the Illinois Central Railroad Company's right of way, between Twenty-fourth and Twenty-sixth Streets, to prevent the railroad from appropriating this land for railroad purposes, the land having been made by the city by the dumping of street sweepings, the location being the only convenient one for a short haul. The withdrawal of this police detail on account of the expense involved seems to have led to the making of a survey by the city to the lake shore from Twenty-second to Thirty-ninth Streets, showing occupation and shore line, with a view to fa-



elicitate an opinion from this department as to the city's right to this "made" land, and the consequent advisability of ordering the police detailed back on the land.

From the blue print attached, it appears that east of the Illinois Central Railroad right of way at the extension of Twenty-fifth Street to the lake shore, a public bathing beach has been established; and the land just south thereof between Twenty-fifth and Twenty-seventh Streets extended is occupied by the city as a dump for street sweepings; and between Twenty-sixth and Twenty-eighth Streets extended are located the round house and switch tracks of the Illinois Central Railroad Company.

The rights of the Illinois Central Railroad Company to the "made" lands at this identical point and the erection of the round house, etc., were passed on by our State and Federal Supreme Courts in the cases of

I. C. R. R. Company v. City of Chicago, 173 Ill. 471.

I. C. Railroad Company v. City, 176 U. S. 646.

In this case an injunction sought by the I. C. R. R. Company against the city to enjoin it from interfering with the erection of such round house was refused. It was the purpose of the Illinois Central Railroad Company to reclaim the land submerged by the shallow waters of Lake Michigan in front of its property between Twenty-fifth and Twenty-seventh Streets for the purpose of erecting thereon an engine house and locomotive stalls necessary to the operation of the road. The city by its police department prevented the completion of the work. The court held that the railroad had no right to fill in the lake and erect engine house on the newly made land.

In both these cases it was held that the State of Illinois holds the title to the land in question in its sovereign capacity in trust for the people of the entire State.

By virtue of such ownership, an act was passed by the Legislature in 1907, giving the South Park Commissioners the right to acquire the riparian rights along the south shore for park purposes by agreement with the riparian owners and giving them the right to agree upon a boundary line between the land taken for park purposes and the land retained by the riparian owners. So far as known, this right has not been exercised and the title to the submerged lands in question is still in the State.

The State, by the charter given to the city, has delegated to the city full police power over the lake for the distance of three miles beyond the city limits. Chapter 24, Paragraph 72, S. & C. Stat.

The police power of the State being thus given to the city is vested in the City Council, and by various ordinances, that body has clothed your department with full power and control over the waters and "made" land in question.

1905 Special Ordinances, paragraphs 969 to 1022.

The submerged lands of Lake Michigan being the property of the State in trust for all the people, your act in preserving such property from encroachment would inure to the benefit of all the people of the State. The City of Chicago as a municipal corporation has no right, title or interest in such submerged lands, except in so far as its people form part of all the people of the State.

Whatever interests the city has in the bathing beach and dumping station on the land in question, are held by it by silent acquiescence on the part of the State, and no rights can be acquired by the city by virtue of such occupation. The city as the agent of the State, in the exercise of its police powers, may, through you, as its agent, prevent any encroachment upon the "made" lands in question. The advisability of doing so, however, must be governed by the means at your command and must be left to your discretion.

Yours very truly,

ADOLPH TRAUB,  
*Assistant Corporation Counsel.*

Approved:

EDWARD J. BRUNDAGE,  
*Corporation Counsel.*

No. 2.

April 27, 1910.

*Henry G. Foreman, Esq., Chairman, South Park Commissioners, 108 Dearborn Street, Chicago.*

DEAR MR. FOREMAN:—On June 8, 1909, in pursuance of a resolution of the City Council, Mayor Busse appointed a special committee of aldermen which, among other things, was authorized to investigate and report on the feasibility of establishing municipal recreation piers, bathing beaches and boat landings on the shore of Lake Michigan. In connection with the work of this committee sundry investigations of so-called riparian rights of the beach owners between Jackson Park and Grant Park were made, the result of which was that the writer became convinced that a very large portion of the lake shore between the points designated was being occupied and held by claimants without legal or equitable right thereto.

As our committee was not authorized or equipped to take up the question of reclamation of the lake shore, the City Council at its regular meeting on January 24, 1910, upon motion of the writer, and with a view to providing speedy action in the matter, unanimously adopted the following resolution:

WHEREAS, sundry private interests and corporations claim ownership to large portions of the shore of Lake Michigan, between Indiana State line on the south and Devon Avenue on the north; and,

WHEREAS, the said lake shore should be forever held by the City of Chicago or by the several park boards within said city, in trust for all the people, for recreation and park purposes;

RESOLVED, That the Mayor be and he is hereby authorized to appoint a commission of three, to be known as the "Lake Shore Reclamation Commission," whose duty it shall be to make such investigations and institute and carry on such proceedings at law and in equity as in the judgment of said commission may be deemed necessary or advisable to procure title and possession to said lake shore for the said city or park boards, and especially to that portion thereof lying between Jackson Park and Grant Park, and to report its proceedings to this council.

In pursuance of the foregoing resolution Mayor Busse appointed as members of the Commission therein provided for, Corporation Counsel Edward J. Brundage, Health Commissioner Dr. W. A. Evans and the writer as chairman.

After a number of conferences between the various parties interested, including the Attorney General, representing the State of Illinois, the State's Attorney, representing the County of Cook, and also the State, and the Corporation Counsel, representing the City of Chicago, it was concluded that suits should be commenced in the name of the State, all other interests represented agreeing to join therein, with a view of recovering and conserving for the benefit of the public for park purposes the valuable shore lands involved.

The first suit in pursuance of the foregoing arrangement was instituted by the filing of a bill in the Superior Court of Cook County April 2, 1910, General Number 278541, for the recovery of the shore lands at and near the foot of Fifty-first Street, a copy of which bill is enclosed herewith for your information.

The work of our commission is designed to be in complete harmony with the plans of the South Park Commission for the conservation of the lake shore, the essential purpose of our commission being to acquire for the public for park purposes substantially the greater portion of the lake shore lying east of the eastern line of the original right of way of the Illinois Central Railway Company between Grant Park and the Beach Hotel, as well as valuable made lands between the Beach Hotel and Jackson Park.

Under the Act of 1897 your commission is vested with certain rights and powers relating to the lake front. With a view of attaining the best possible results from our litigation and with a view of removing any possible conflict of interest, I wish to assure you that we would be exceedingly pleased to have you co-operate with us in such manner as may seem most agreeable to you, and

especially to the extent of suspending action under the Act of 1897 aforesaid pending our litigation.

Awaiting an early reply, I beg to remain,

Yours very truly,

THEODORE K. LONG,  
*Chairman Lake Shore Reclamation Committee.*

I hereby certify that I this day at the hour of 12 o'clock M. delivered to Mr. Henry G. Foreman, at his office, 108 Dearborn Street, the original letter of which this is a copy, together with the enclosure therein mentioned.

Dated this 29th day of April, A. D. 1910.

EDWARD E. BRIGHAM.

No. 3.

June 8, 1910..

*Hon. Edward J. Brundage, Corporation Counsel.*

DEAR MR. BRUNDAGE:—Some time ago in conversation with Dr. Evans, who is a member of our commission and who is keenly interested in our work, he suggested to me that during his recent trip to Washington in connection with the bill pending before Congress, his attention was called to certain files in the War Department, which, upon examination by him, disclosed the following facts:

About 1893 George M. Pullman filed an application to build a breakwater between Fifty-third and Fifty-fourth Streets to protect his property. With the application was filed a survey made by Lilljencrantz, which shows the original meander line of the shore at that point, and may be of some use in our investigations.

What struck Dr. Evans as significant in the application was the fact that the applicant urged as a reason for immediate action on the part of the government, that he was desirous of building on the shore a charity hospital for the benefit of the public. The application was granted, but the charity hospital has never been forthcoming.

I send you this data in order that it may be preserved in the files of the Pullman case.

I also enclose two memorandums showing the acreage involved in our several actions and the value of the same.

Yours very truly,

THEODORE K. LONG.

No. 5.

CLIFTON HOTEL, NIAGARA FALLS, Canada, July 20, 1910.

*To the Corporation Counsel, City Hall, Chicago.*

DEAR MR. BRUNDAGE:—I regret that I could not find time to have a further conference with you before coming away; but the last few days prior to my departure seemed to be so crowded with things that had to be disposed of that I found it physically impossible to attend to anything further.

At our last conference we discussed somewhat briefly our prospective decree, especially with reference to the advisability of having it settle the title to our lake shore reclamations in the South Park Commission, rather than in the State of Illinois. Acting upon this idea, I called to see Mr. Redfield on Monday by appointment and found him in the midst of completing his arrangements to go away for his vacation. He very graciously turned me over to his partner, Major Tolman, with whom I fully discussed the situation and who arranged a meeting with Mr. Foreman of the South Park Board in the afternoon. At this meeting there were present Mr. Foreman, his park superintendent, Major Tolman, and the writer. We went over the details pretty fully.

My principal object in going into the matter fully at this time was to urge the South Park Board in consideration of the work we have done and the money we have expended in bringing about this adjustment, to agree with the city, so that such agreement may be set out in the decree, that the South Park will bear the expense (about \$75,000) of the construction of the temporary bridge leading from Morgan's Pier to Morgan's Shoal, and the retaining wall necessary to hold the material on the reef. The park should in all fairness agree to this, because we are fighting the park's battles and making land for them, and my position is that if we do the filling-in for them, they can well afford to supply at their own cost all the temporary structures necessary to make such filling-in possible. I am inclined to believe that the park board will at least meet us with a fair suggestion of adjusting this whole matter as between the city and the park.

I gave Major Tolman a copy of the memorandum I dictated, setting out tentatively the basic points to be covered by our decree, a copy of which memorandum I left with your clerk under seal for your information.

Kindly let me hear from you at your earliest convenience. I expect to be here about two weeks from today, after which I contemplate going down the St. Lawrence, Frontenac, and later on to Quebec.

Yours very truly,

THEODORE K. LONG.

No. 6.

CHICAGO, October 17, 1911.

*Hon. William H. Sexton, Corporation Counsel.*

DEAR MR. SEXTON:—This is to remind you of our conversation of some time since relative to the suit pending against the Beach Hotel Company for certain made lands at the corner of Fifty-first Street and East End Avenue.

As stated then, my information is to the effect that the fee to East End Park is in the city, the land having been a gift from one Cornell at a time when the shore line was several hundred feet west of where it is now; so that the accretions which have been formed south of a line beginning at the corner of Fifty-first Street and East End Avenue, or thereabouts, and extending into the lake, at right angles with the original shore line, would belong to the city and not to the State.

For the reason above set forth, I feel that the city should intervene in this case, setting up its absolute ownership in the made lands adjacent to the Cornell tract; so that the decree may be made direct to the city as the owner of riparian rights and consequently the owner of said made lands.

Will you kindly give this matter your early attention and greatly oblige,

Yours very truly,

THEODORE K. LONG.

No. 7.

January 26, 1912.

*Alderman Theodore K. Long, City Hall, Chicago.*

MY DEAR MR. LONG:—Since my last interview with you regarding the lake front matter, I have given the subject a great deal of thought, and my conclusions are that while it is very desirable that the railroad should be restricted in the use of its entire right of way, it would be a great misfortune to the city not to have the present tentative bargain carried out, as it would probably result in a long postponement of a settlement of the question.

As you are aware, the property abutting on the Illinois Central Railroad is of but very little value as residence property as far south as Thirty-fifth Street, yes, even as far as Forty-third Street, except a few blocks north of Twenty-second Street and a portion of the property between Forty-third and Thirty-ninth Streets, and the first mentioned is already drifting into business. It is my opinion that this property will never again be as valuable for residence property

as it has been in the past, as the tendency is for all home builders to seek the country. Furthermore, it is hardly conceivable to me that if the railroad company were not restricted as to their old right of way, that they would be likely to utilize it for commercial purposes from Randolph Street farther than Thirty-fifth Street, and if they did, they would not be likely to build anything more objectionable than what they would have an undisputed right to do, viz., leave trains of freight cars standing on their switches and tracks. In my judgment, looking ahead for a period of years, the time is past when the property abutting on the west line of the present Illinois Central right of way will be very valuable for anything besides business purposes, and it certainly is desirable that the Field Museum should be located at Twelfth Street, and that the whole matter be settled now that an agreement has been so nearly reached and the city have the right to go ahead with its contemplated improvements. Is it not possible that a compromise might be effected as to the restriction at some point between Thirty-first and Thirty-fifth Streets? This is my deliberate judgment irrespective of any personal interest whatever that I have in the matter, and, as you know, I am and have been a property owner in Kenwood for a great many years.

Yours very truly,

E. A. POTTER.

## APPENDIX K.

1. MAP (PLATE 1) SHOWING PROPOSED LOCATION OF BATHING BEACHES ALONG THE LAKE SHORE AS FOLLOWS:
  - (a) MONTROSE AVENUE;
  - (b) DIVERSEY BOULEVARD;
  - (c) OHIO STREET;
  - (d) TWENTY-SECOND STREET;
  - (e) THIRTY-NINTH STREET;
  - (f) FIFTY-FIRST STREET;
  - (g) JACKSON PARK;
  - (h) SEVENTY-NINTH STREET.
2. CORRESPONDENCE WITH EDWARD O. BROWN RELATIVE TO ABOVE PROPOSED TREATMENT OF THE LAKE SHORE.
3. CORRESPONDENCE WITH JOHN BARTON PAYNE CONCERNING THE PROPOSED TREATMENT OF THE LAKE SHORE AT FIFTY-FIRST STREET AND MORGAN SHOAL RELATIVE TO THE BUILDING OF AN ISLAND PARK AND OUTER BOULEVARD.
4. THREE PLATS SHOWING PROPOSED TREATMENT OF MORGAN SHOAL.
5. RECOMMENDATIONS OF COMMITTEE ON BATHING BEACHES. (SEE PLATE 1.)
6. REPORT OF CITY ENGINEER ERICSON.
7. ESTIMATES OF COST, ETC.

PECKHAM, BROWN, PACKARD & WALSH,  
LAWYERS,  
FIRST NATIONAL BANK BUILDING,  
CHICAGO.

September 23, 1909.

*Hon. Theodore K. Long, 4823 Kimbark Avenue, Chicago.*

MY DEAR MR. LONG:—In 1893, I think it was, when Mr. Andrew Crawford was president of the Lincoln Park Commissioners, I became the attorney for the Lincoln Park Commissioners. I was thereafter, for several years, the attorney or special counsel for the commission, in fact, I continued to serve them in some ways until my election to the circuit bench in 1903.

Upon becoming their adviser, I was immediately brought into the consideration of questions concerning the rights of littoral owners upon Lake Michigan. My advice to the board, sometimes in the form of opinions, some of which were printed and distributed, and the litigation involving these questions, con-

stituted a large part of my duties. Besides the controversies in relation to the Ohio Street extension through all the courts, I represented the commission in the McKee scrip matter, which involved the same lands, before the Land Office and the Interior Department at Washington, and I brought to its final and successful issue the case of the People vs. Revell, 177 Ill. 468, in which the law of Illinois was established in relation to the rights of the State over the shallows of Lake Michigan.

The Supreme Court, at our instance in this case, repudiated the doctrine of the Supreme Court of the United States laid down in the Illinois Central case, and this was the foundation of all the claims of the State of the illegality of the purprestures which littoral owners have erected in the shallows of Lake Michigan.

In *Gordon vs. Winston* I again secured from the Supreme Court a decision in the matter, and in numerous other cases the lower courts, who had the same matters before them, of course followed the Supreme Court. In the *Gordon* case I pointed out in a brief the use which the State or its agents could make for the people of the shallows of Lake Michigan, for recreation piers, parkways, etc., and appended to the brief and argument some photographs showing the use that had been made in New York.

I mention these matters to show you that I have been, for many years, interested in the question concerning which you, for your committee, made a report to the Mayor, and I wish to say that your proposition is the first intelligent and practicable suggestion that I have been informed of for securing the advantages for the people generally of the decisions which we obtained. I tried hard to get members of the Legislature to take up the matter of framing and passing a bill, general in its terms, which might accomplish the result aimed at by your suggestions, immediately after the decision of the Revell case, but became discouraged when I seemed to find that nobody was interested in behalf of the people when there was nothing in it pecuniarily for themselves or clients.

I shall watch the proceedings of the commission upon this point, or of any conference that may be had, with great interest, and should be glad to be of use if I can be. My interest and acquaintance in the matter will be generally recognized.

Very truly yours,

EDWARD O. BROWN.

September 30, 1909.

*Mr. Edward O. Brown, Care Peckham, Brown, Packard and Walsh, First National Bank Building, Chicago, Illinois.*

MY DEAR BROWN:—I beg to acknowledge the receipt of your favor of September 28th, and I thank you very much for the same. It is, to say the least, encouraging to receive such a letter from one so well versed in this subject as yourself, and I shall take occasion at an early day to see you and talk with you more fully on the lake front matter.

Yours very truly,

THEODORE K. LONG.

October 8, 1912.

*Hon. John Barton Payne, President, South Park Commissioners, First National Bank Building, City.*

MY DEAR JUDGE PAYNE:—Pursuant to my engagement, I herewith enclose four sketches relating to the contemplated improvement of Morgan Shoal at or near Fifty-first Street, also report of estimates of City Engineer Ericson.

I also enclose copy of our bathing beach report, from which the enclosed excerpts are taken.

I desire especially to invite your attention to "Plate 2 and Plate D." These will, doubtless, give you a pretty fair idea of what our commission, co-operating with Mr. Burnham, had in view. Plate 2 is drawn so as to show a connection of the outer driveway with the shore at Fifty-first Street. My idea, as approved by Mr. Burnham, was that a start should be made for the outer driveway at this point by filling in Morgan Shoal, covering approximately one hundred acres. From this point a driveway could be carried southwardly by any one of the three following ways:

(1) Connect Morgan Shoal by a bridge or viaduct across the south end of the proposed lagoon with Forty-ninth Street and continue the driveway thence along the shore to Jackson Park; or,

(2) Connect Morgan Shoal by an open bridge or viaduct across the south end of the lagoon with the existing pier at Fifty-first Street, as shown in Plate 2, and continue driveway across the pier and thence along the shore to Jackson Park; or,

(3) Continue the filling from Morgan Shoal southerly and parallel with the shore, carrying the driveway outside of the lagoon to Jackson Park proper.

The second plan above seemed to receive the most favor and was the one we adopted, our principal reasons therefor being that it seemed to fit in logically with the Burnham plan, and then, too, the bridge work necessary to effect a shore connection with the existing pier at Fifty-first Street would be much shorter and less expensive than any connection required for said Forty-ninth Street.

Trusting that the foregoing may give you some idea of what we have had under consideration, I beg to remain.

Yours truly,

THEODORE K. LONG.

Enclosures:

1. Plate 2, Morgan Shoal Park.
2. Plate D, Morgan Shoal, general ground plan.
3. Plate 1, diagram of lake shore showing bathing beaches.
4. Plate 7, perspective view of Morgan Shoal Island.
5. Committee's recommendation as to bathing beaches.
6. Report of City Engineer Ericson.
7. Estimates of cost by Chief Designer Karl L. Lehman.

SOUTH PARK COMMISSIONERS.

57TH ST. AND COTTAGE GROVE AVE.  
CHICAGO.

October 10, 1912.

*Alderman Theodore K. Long, City Hall, Chicago, Illinois.*

MY DEAR ALDERMAN:—I am greatly indebted to you for the plats, and so forth, which you were good enough to send me *re* the improvement of the lake shore near the Beach Hotel.

This is so nearly my own idea in the matter that it looks like an inspiration, and that we were both working on the same line.

Again thanking you, I am.

Very truly yours,

JOHN BARTON PAYNE.



①

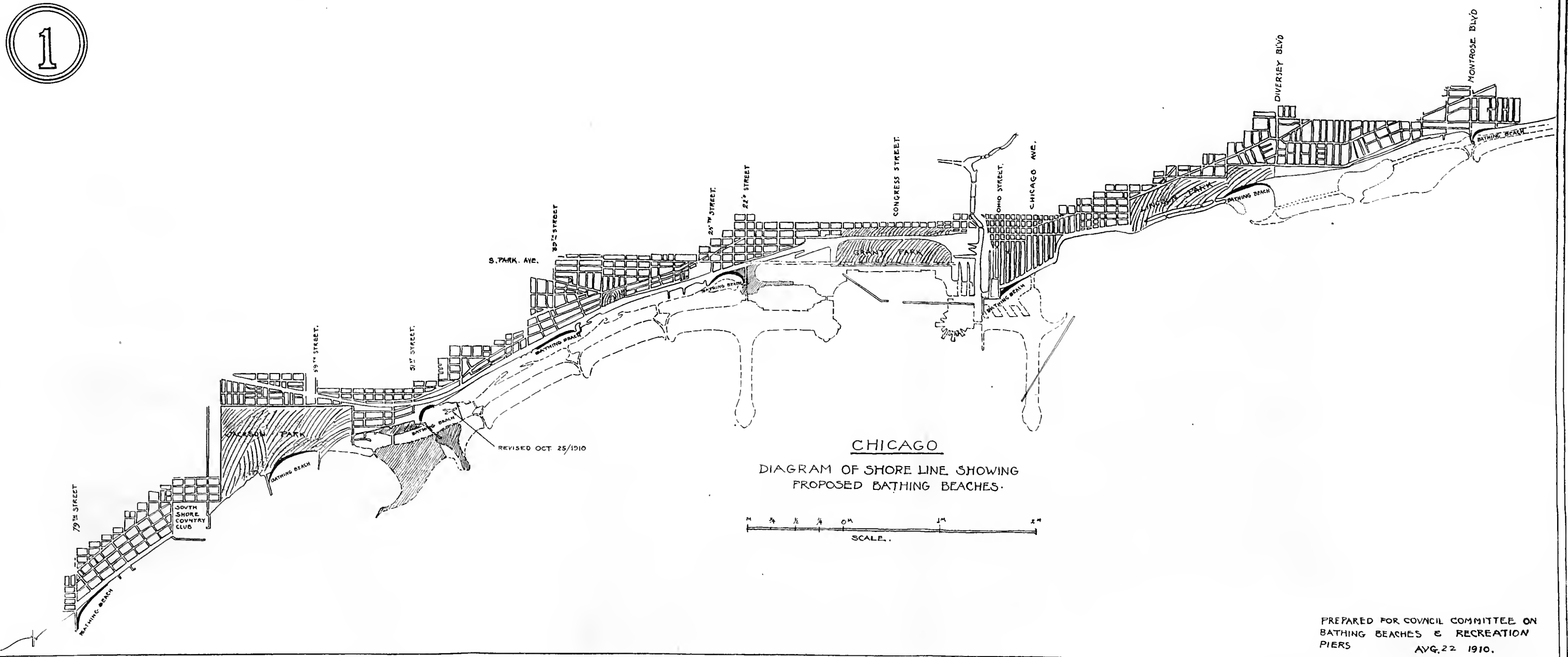


DIAGRAM OF THE LAKE SHORE FROM MONTROSE AVENUE TO SEVENTY-NINTH STREET, SHOWING PROPOSED BATHING BEACHES.

**PLATE 1.**

PREPARED FOR COUNCIL COMMITTEE ON  
BATHING BEACHES & RECREATION  
PIERS  
AVG. 22 1910.

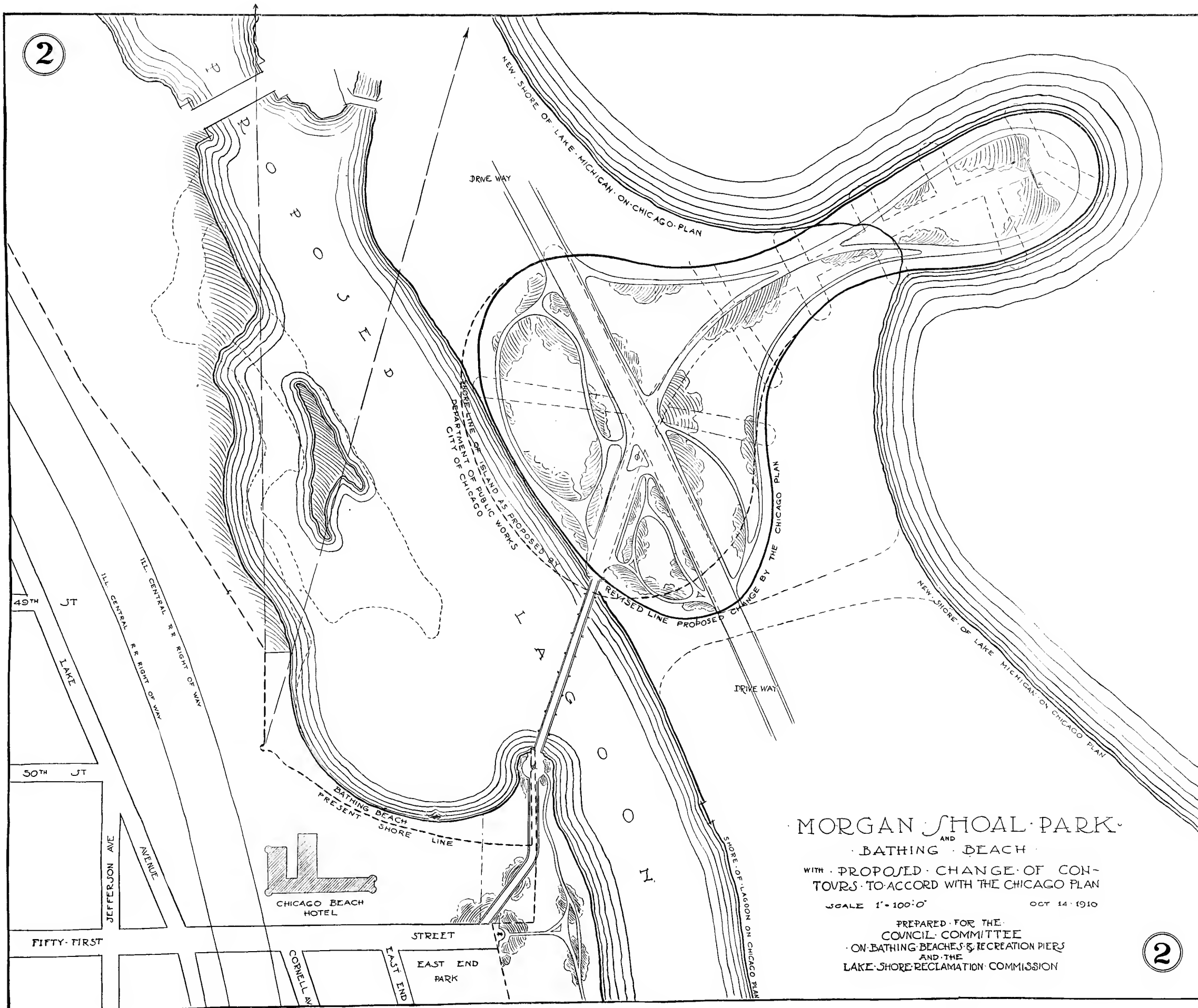
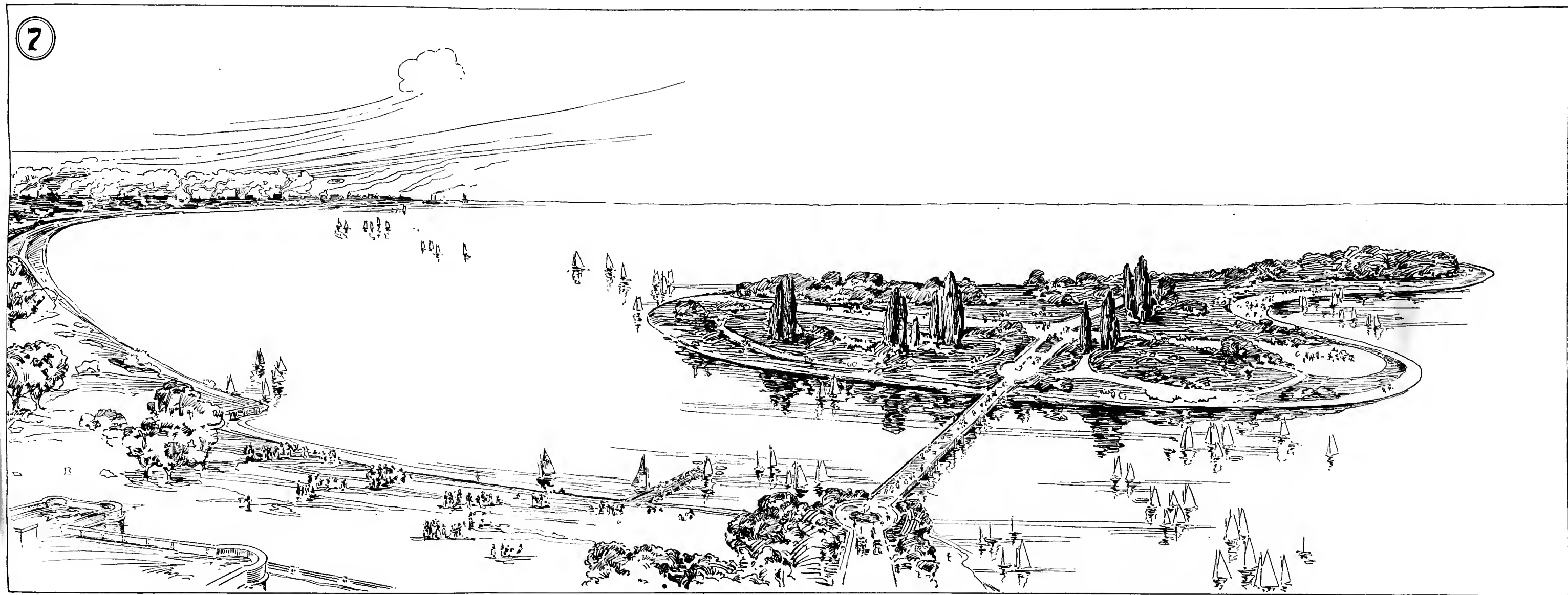
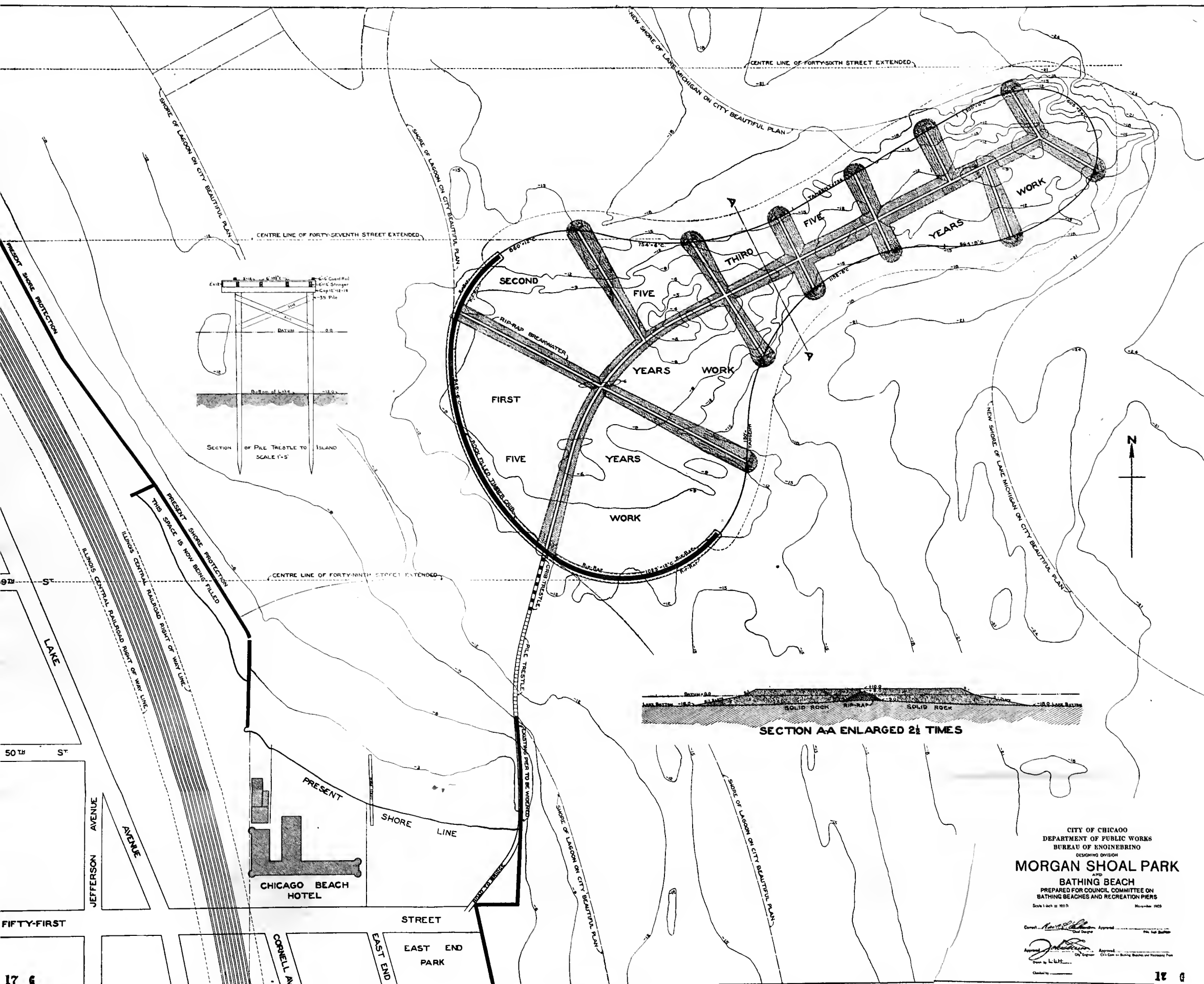


PLATE 2.



FIFTY-FIRST STREET PERSPECTIVE VIEW OF ISLAND AND BEACH, MORGAN SHOAL.

PLATE 7.



MORGAN SHOAL PARK GENERAL GROUND PLAN.

PLATE D.

## COMMITTEE'S RECOMMENDATIONS.\*

In the presentation of a plan for the establishment of bathing beaches and recreation piers, it is to be understood that the same is necessarily more or less tentative. The proposition is one that cannot be worked out upon any fixed basis at this time. Yet it is a decided advantage that at least the general outline of the scheme should be well understood and determined as something to which we can hope to attain. The committee recommends the adoption of a plan which contemplates the establishment eventually of not less than seven municipal bathing beaches to be established substantially as follows:

1. Montrose Avenue.
2. Diversey Boulevard. (This beach has recently been opened by the Lincoln Park Commission.)
3. Ohio Street.
4. Twenty-second Street to Twenty-fifth Street. (A small beach is now maintained by the city at Twenty-fifth Street.)
5. Thirty-ninth Street.
6. Jackson Park. (The South Park Commission has already formulated tentative plans for this beach.)
7. Seventy-ninth Street. (The city now maintains a small beach at this place.)

The above beaches are shown in detail in the diagram marked "Plate 1."

In addition to the foregoing, the committee recommends that provision be made for filling in Morgan Shoal between Forty-eighth and Fifty-first Streets in accordance with the plans of Engineer Ericson, as slightly modified by Mr. Edward H. Bennett, to conform to the general shore lines of the Commercial Club plans, as revised October 25, 1910. (See "Plate 2.")

## MORGAN SHOAL PARK.

The conditions for the making of an island park at this place are more or less difficult, owing to the irregular and rocky bottom. The plans as proposed provide for an island to be formed around the shoal and of about forty-five acres area. Owing to the limited capacity of the bridge that would have to lead to this island and also on account of the difficulty in dumping material direct at this place so that dumpings in the lake would probably have to be rehandled, it would take a good many years to build the island as proposed. The outline of the island falls within the City Beautiful plan.

The depth of water at the site varies from four to fifteen feet below city datum. The method proposed for forming the island is as follows: A ridge is made over the highest parts of the lake bottom as a center rib of the island with cross ridges to both sides, forming pockets for the deposited fill, with a rock-filled crib forming about a half circle on the side toward the shore, sunk in about twelve feet of water with rip-rap stones on both sides.

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\*See Joint Report of Committee on Bathing Beaches and Lake Shore Reclamation Commission, December, 1910.

The ridges are supposed to be made of good sized stones, bought from the Sanitary District, eight feet wide on top, five feet above water, and sloping one foot vertically in two feet horizontally. The rock-filled crib will be four feet above water and sixteen feet wide, built of 12 by 12 inch side timbers (half open) and cross timbers, made in sections, and sunk, but connected, above water, and floored over so that it can be used as a landing two thousand feet long.

The connection with the shore consists of a trestle built on cribs where the bottom is rock and the balance pile trestle to the existing pier at the Fifty-first Street Bathing Beach; this pier to be widened to the same width as the trestle, eighteen feet. This trestle is not intended as a permanent bridge, but will be kept in repair and used during construction for wagon traffic, for which channel iron tracks are provided.

The first year the south half of the crib and the trestle should be built, as well as the two corresponding ridges forming the southwesterly pocket, and say, fifty thousand cubic yards dumped in place. This will cost about \$50,000. During the next four years the filling in should be continued and extended over the adjoining western pocket, completing the timber crib and ridge for same. The cost of this work is estimated at \$140,000, or \$35,000 for each of the four years. Total for five years, \$190,000, for sixteen acres. In the following five years the middle pockets should be built and filled at a cost of about \$30,000 a year. Total cost in ten years for thirty acres, \$340,000. The third five-year period should finish this work at a cost of about \$40,000 a year. Total cost therefor, \$540,000, or about \$12,000 per acre, or for a 25 by 125-foot lot with share of the streets and alleys, \$1,250.

In course of time the island is likely to increase by the action of the waves.

The price per cubic yard of fill (which is five-sixths of the whole work) is difficult to estimate closely. Quite an amount will be dumped free of charge, but the greater part will have to be paid for, and for the part above and near water level the material will have to be rehandled after dumping of same, except such material as is brought over the trestle.

Respectfully submitted,

(Signed) JOHN ERICSON,  
City Engineer.

## MORGAN SHOAL PARK.

### ESTIMATE OF COST.

#### *First Five Years' Work.*

##### Bridge to Island. (1,200 Feet.) First Year:

Piling, 3,000 lineal feet, at \$0.20.....	\$ 600.00
Rock, 2,000 cubic yards, at \$0.50.....	1,000.00
Steel, 32 tons, at \$50.00.....	1,600.00
Bolts, spikes, etc., 10 tons at \$60.00.....	600.00
Timber, 210,000 feet, B. M., at \$40.00.....	8,400.00
Grading road, 200 lineal feet, at \$1.50.....	300.00
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	\$ 12,500.00

##### Crib to Protect Shore of Island. (2,000 feet.) First and Second Years:

Timber, 600,000 feet, B. M., at \$40.00.....	\$ 24,000.00
Rock, 23,000 cubic yards, at \$0.50.....	11,500.00
Iron rods, etc., 25 tons, at \$60.00.....	1,500.00
	<hr/>
	\$ 37,000.00

##### Making Island. (16 acres.) First Five Years:

Rock, 40,000 cubic yards, at \$0.30.....	\$ 12,000.00
Filling, 428,000 cubic yards, about \$0.30.....	128,500.00
	<hr/>
	\$140,500.00
First Five Years.....	\$190,000.00

*First Year's Work.*

Bridge .....	\$ 12,500.00
Crib (one-half) .....	18,500.00
Making island .....	19,000.00
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First Year's Work.....	\$ 50,000.00

*Second Five Years' Work.*

Making Island. (14 acres.)	
Rock, 30,000 cubic yards, at \$0.30.....	\$ 9,000.00
Filling, 470,000 cubic yards, at \$0.30.....	141,000.00
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	\$150,000.00

*Third Five Years' Work.*

Making Island. (15 acres.)	
Rock, 80,000 cubic yards, at \$0.30.....	\$ 24,000.00
Filling, 587,000 cubic yards, at \$0.30.....	176,000.00
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	\$200,000.00
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Grand total for 45 acres.....	\$540,000.00

**SUMMARY.**

1st year.....	\$ 50,000.00	9th year.....	\$ 30,000.00
2d year.....	35,000.00	10th year.....	30,000.00
3d year.....	35,000.00	11th year.....	40,000.00
4th year.....	35,000.00	12th year.....	40,000.00
5th year.....	35,000.00	13th year.....	40,000.00
6th year.....	30,000.00	14th year.....	40,000.00
7th year.....	30,000.00	15th year.....	40,000.00
8th year.....	30,000.00	<hr/>	
Total .....			\$540,000.00

\$540,000 for 45 acres equals \$12,000 per acre.

45 acres in 15 years equals 3 acres per year.

Total rock, cubic yards.....	175,000
Total earth, sand and clay, cubic yards.....	1,485,000
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Total fill, cubic yards.....1,660,000

(Signed) CARL L. LEHMANN,  
Chief Designer.

## APPENDIX L.

## WITHDRAWAL OF APPEARANCES AND ANSWERS OF THE CITY BY THE CORPORATION COUNSEL IN THE ILLINOIS CENTRAL LAKE SHORE CASE.

The Clerk presented the following communication submitted by the Corporation Counsel, which was ordered published and placed on file:

DEPARTMENT OF LAW, CHICAGO, July 8, 1912.

*To the Honorable, the City Council.*

GENTLEMEN:—March 30, 1912, an agreement was made between the South Park Commissioners, a municipal corporation, and the Illinois Central Railroad Company relating to lands and riparian rights, removal of passenger depot, location of viaducts and other matters in the City of Chicago and cancelling an agreement between the parties made December 11, 1911.

Later the South Park Commissioners filed its petition in the Circuit Court of Cook County praying that the boundary line fixed by said agreement be confirmed.

May 20, 1912, your Honorable Body passed the following order:

*"Ordered,* That the Corporation Counsel be and he is hereby authorized and directed to enter the appearance of the City of Chicago in said proceedings and to take such steps as he may deem proper to protect the interests of the city and public."

The statute under which the proceedings were filed in the Circuit Court authorized any taxpayer or legal voter in the South Park District to file objections to the confirmation of the boundary line. No authority is found under which the city could enter its appearance, but by stipulation of counsel, the same was filed. Out of an abundance of caution, however, it was deemed advisable to enter the appearance of a taxpayer and legal voter in the South Park District, and upon my request, Mr. Maclay Hoyne, First Assistant Corporation Counsel, filed his answer and the same was adopted by the city as its answer.

On July 3, 1912, on our motion, an order was entered by Judge Honore allowing the city and Mr. Hoyne to withdraw their appearances and answers respectively. The reasons for so withdrawing are set forth in the following statement made to the court by me:

"May 20, 1912, the City Council, on motion of Alderman Cermak, passed the following order:

*"Ordered,* That the Corporation Counsel be and he is hereby authorized and directed to enter the appearance of the City of Chicago in said proceeding and to take such steps as he may deem proper to protect the interest of the City of Chicago and the public."

"In compliance with the order of the City Council the appearance of the City of Chicago was entered. The statute under which the proceedings were filed in the Circuit Court authorized any taxpayer or legal voter in the South Park District to file objections to the confirmation of the boundary line. No authority is found under which the city could enter its appearance, but by stipulation of counsel, the same was filed. Out of an abundance of caution, however, it was deemed advisable to enter the appearance of a taxpayer and legal voter in the South Park District, and upon request of the Corporation Counsel, Mr. Maclay Hoyne, First Assistant Corporation Counsel, filed his appearance. Later he filed his answer and the same was adopted by the city as its answer.



"The proposition of a settlement of the lake front controversy, which controversy has been in existence for the past forty years or more, has met with the approval of Mayor Harrison and his reasons therefor are set forth in his veto message of May 20, 1912. The settlement of the lake front controversy has been undertaken by the South Park Commissioners, in whom the title to the submerged lands of Lake Michigan adjoining the South Park District was vested by the Illinois General Assembly. It was the intention of the Corporation Counsel and Mr. Hoyne to represent the interest of the taxpayers and the citizens of Chicago generally, although in law, only those living in the South Park District are directly interested in the question of the boundary line and the contract made between the South Park Commissioners and the Illinois Central Railroad Company. Certain citizens were represented in the proceedings by Mr. Lessing Rosenthal, but their objections to the confirmation of the boundary line fixed by the contract of March 30, 1912, have been withdrawn because of the making of a supplemental contract between the South Park Commissioners and the Illinois Central Railroad Company, which purports to cover the objections said persons had to the contract of March 30, 1912.

"The Corporation Counsel and Mr. Hoyne do not concede that this supplemental contract will have all the effect that the public has been led to believe it will have. They understand that this supplemental contract is not made a part of the original contract of March 30, 1912, but stands by itself to be carried out by the parties to the contract if they choose to carry it out, and to be enforced by legal proceedings if the parties thereto fail to carry out all its provisions if it is capable of being legally enforced.

"It is well known that the city instigated the institution of suits to reclaim made lands lying south of Twelfth Street. One of these suits is against the Illinois Central Railroad Company and claims title in the State to certain made lands lying east of the Illinois Central Railroad. These suits were instituted in the name of the Attorney General of Illinois and the State's Attorney of Cook County. Since the trial of this proceeding began before Judge Honore, the Attorney General, through his representative, Mr. Robert N. Holt, has taken the position that the State is not interested in the pending proceeding and that the claims of the State to the made lands relied on in the State's reclamation case, will be maintained after the termination of the pending proceeding here if, in the opinion of the Attorney General, such claims ought to be pressed and insisted upon.

"All the foregoing places the city in a peculiar position and one more or less anomalous. The South Park Commissioners under the law is an independent municipal corporation and has the legal right to make the contract which was made on March 30, 1912, and to file the petition to confirm the boundary line fixed in the contract. The City of Chicago as a municipal corporation has no independent or supervisory powers over the making of the contract or the fixing of the boundary line. Nor has the city the right to bind the State or control its attitude as to the made lands which are the subject of the reclamation case pending against the Illinois Central Railroad Company. The city is in the further position of being a party defendant to this suit, and it may be contended later that the city is bound by all the terms of the decree which may be entered and by the provisions of the contract of March 30, 1912, and perhaps of the supplemental contract made as a condition of the withdrawal of the objections of the citizens above referred to. The City of Chicago was not a party to either the contract of March 30, 1912, nor to said supplemental contract and took no part in the negotiations leading up to the making of either contract. It may be that the City Council and the Mayor of the City of Chicago are not entirely satisfied with all the provisions of said two agreements. But, however that may be, the City Council will have ample opportunity to conserve the rights of the City of Chicago and the public in any way it may see fit when the Illinois Central Railroad Company comes to the City of Chicago for an ordinance granting to the railroad company certain privileges, which the railroad will have to do when it carries out certain improvements which it now contemplates and without which it will derive no benefit from the

lands which it may receive by its agreement with the South Park Commissioners.

"For all the foregoing reasons, the Corporation Counsel and Mr. Hoyne have decided to withdraw the appearances of the City of Chicago and of Mr. Hoyne, respectively, and in so doing are of the opinion that it is the proper step to take to protect the interest of the city and the general public."

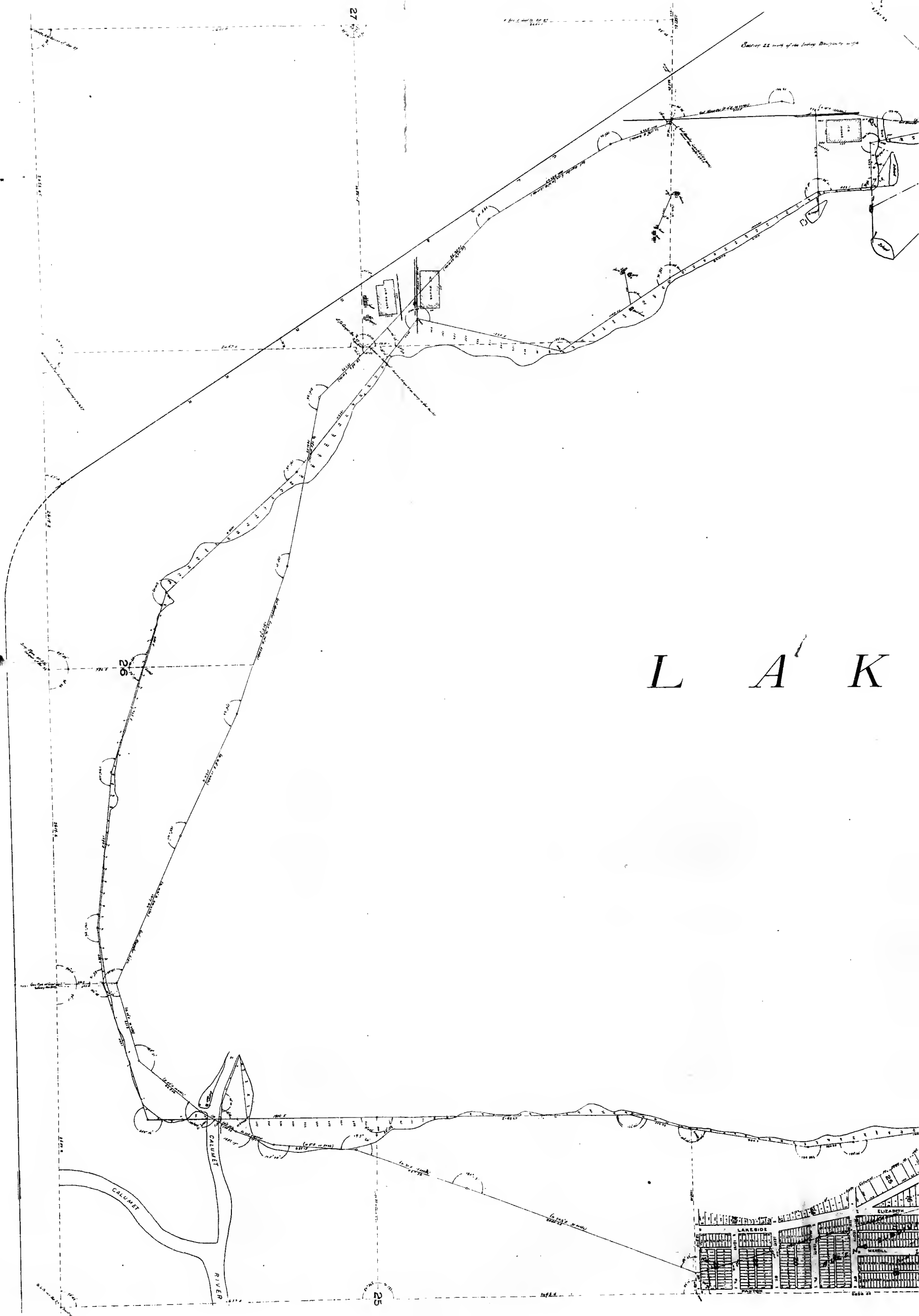
I transmit herewith a copy of said supplemental agreement for your information.

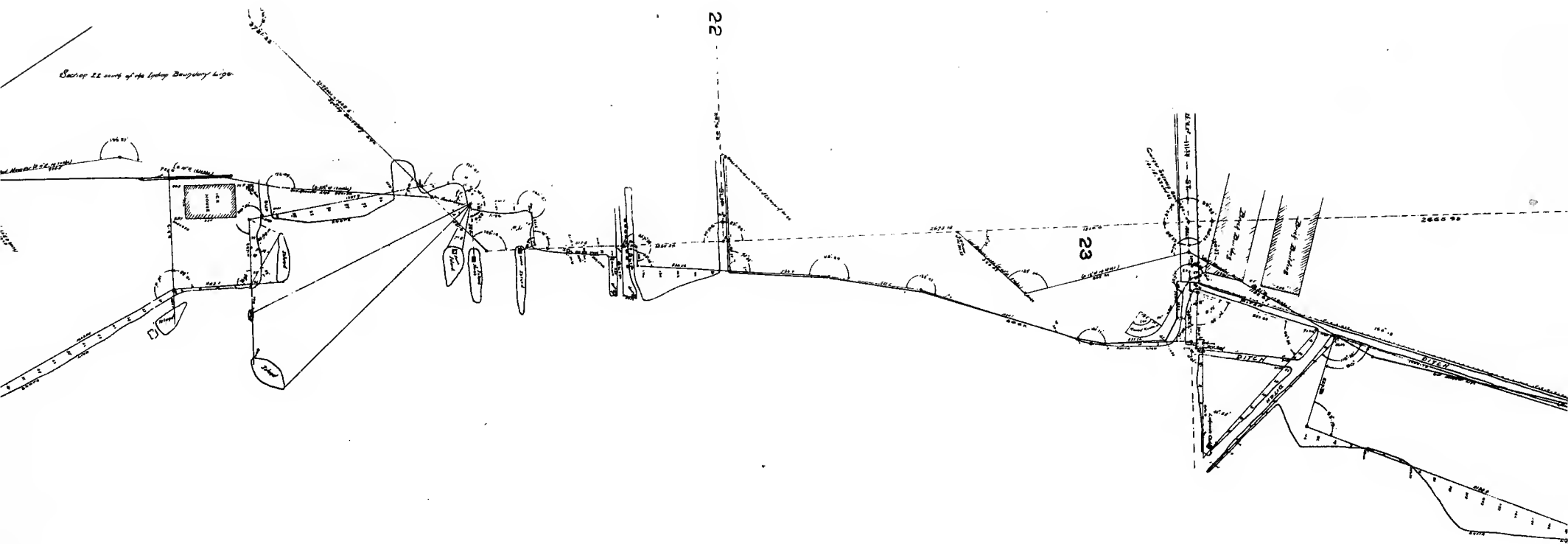
I sincerely trust that my action in withdrawing the appearance of the City of Chicago will meet with the full approval of your Honorable Body.

Respectfully submitted,

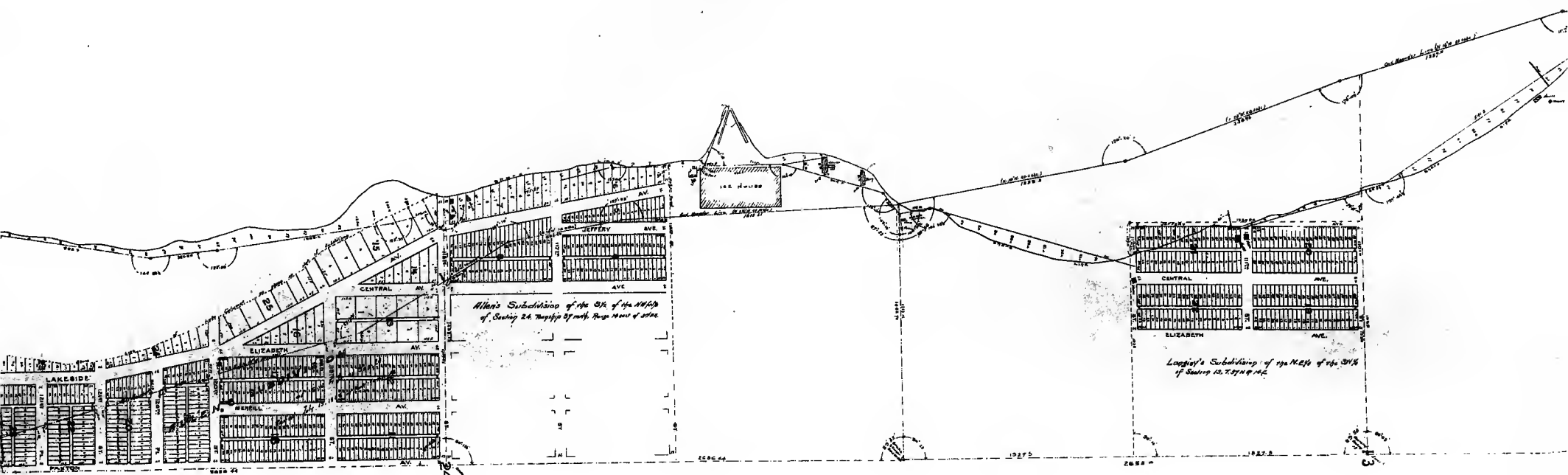
WM. H. SEXTON,  
*Corporation Counsel.*

(Council Proceedings, July 8, 1912, p. 1052.)





# A K E C A L U M E T







APPENDIX M.  
SURVEY OF LAKE CALUMET.











